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ABBREVIATIONS

FBI	Federal Bureau of Investigation
GAO	General Accounting Office

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BY THE COMPTROLLER GENERAL

Report To The Chairman, Subcommittee On Crime, Committee On The Judiciary House Of Representatives OF THE UNITED STATES

COMPLETED ORIGINAL

Justice Needs To Better Manage Its Fight Against Public Corruption

In 1977 the Department of Justice designated public corruption--crimes by public officials--as one of the priorities among its law enforcement activities. Justice had already established the Public Integrity Section as a focal point for coordinating its attack on public corruption.

GAO found that management and coordination of public corruption activities by the Public Integrity Section need to be improved. The Section needs to effectively plan public corruption efforts and develop accurate and comparable data on these efforts. To get a better handle on the Department's efforts to combat white collar crime and public corruption a step forward is being made by the Department through its recently established Economic Crime Enforcement Program. This program was too new to be evaluated. However if it accomplishes the objectives established it should improve the planning and direction of public corruption efforts. GAO believes, however, that even though this program is an improvement over the existing system, the Department needs to develop an evaluation plan so that it can fully evaluate the success of the program and identify areas where improvements could enhance its efforts.

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JULY 24, 1980

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197601

The Honorable John Conyers, Jr.
Chairman, Subcommittee on Crime
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

This report addresses the need for Justice to improve its management of the public corruption efforts. Justice has made inroads in attacking public corruption activities since its Public Integrity Section was established as the focal point for the Department's public corruption efforts. However, its efforts have been hampered in accomplishing its oversight mission. Thus, Justice needs to improve its coordination and monitoring of public corruption efforts and develop accurate and comparable data to show the extent of efforts undertaken by the various Justice components. Justice also needs to develop evaluation and resource plans for its newly created Economic Crime Enforcement Program to insure that the best attack is made on public corruption. Chapter 2 contains recommendations to the Attorney General to improve the management of the program.

This review was made pursuant to your April 26, 1978, request and subsequent agreements with your office. As arranged with your office, unless you publicly announce the contents earlier, we plan no further distribution of this report until 20 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Comptroller General
of the United States

A

COMPTROLLER GENERAL'S
REPORT TO THE CHAIRMAN,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

JUSTICE NEEDS TO BETTER MANAGE ITS FIGHT AGAINST PUBLIC CORRUPTION

D I G E S T

Since January 1976 when the Department of Justice established the Public Integrity Section to coordinate its attack on public corruption, it has increased indictments by 103 (from 563 to 666 by the end of calendar year 1979). The Federal Bureau of Investigation (FBI) has also increased its efforts substantially--from 574 cases under investigation in February 1978 to 1,185 in September 1979.

Notwithstanding these increased activities, the Department of Justice needs to better plan efforts, monitor the results of its efforts, and develop accurate and comparable data to enable a thorough evaluation of the program. (See pp. 4 to 13.)

Justice's new Economic Crime Enforcement Program is an attempt to further step up its attack nationwide on white-collar crime and public corruption. This program has as its mission to neutralize jurisdictional conflicts, coordinate intelligence, and focus specialized resources on all field aspects of white-collar crime. GAO found that this new endeavor is a step in the right direction and much better than its past system. GAO believes, however, that the Department needs to develop an evaluation plan so that it will have the means to fully evaluate how successful the program is and, if necessary, institute changes to the program. (See p. 13.)

GGD-80-38

Tear Sheet. Upon removal, the report cover date should be noted hereon.

MANAGEMENT OF PUBLIC CORRUPTION EFFORTS NEEDS IMPROVEMENT

The Public Integrity Section has not been able to evaluate the Department's public corruption efforts because (1) it did not effectively plan what the field offices' public corruption efforts should be and (2) it lacks accurate and comparable data on its efforts. As a result, each component has been left to its own discretion, accurate and comparable data do not exist, and an adequate evaluation of the Department's success has not been made. However, a recently established program may provide the basis to adequately centralize, prioritize, and focus the Department's efforts to combat public corruption.

Public corruption efforts differ

U.S. attorneys and FBI special agents-in-charge have determined their own offices' public corruption efforts, such as what prosecutive and investigative techniques would be used. As a result, techniques varied among the eight U.S. attorneys' offices and eight FBI offices visited.

Two U.S. attorneys' offices and two FBI offices reviewed used innovative techniques such as targeting specific Federal programs for intensive efforts to detect and investigate public corruption. The other U.S. attorneys' and FBI offices reviewed used a more traditional, reactive approach, that is, they waited until a specific public corruption case was brought to them either through a complaint or another investigation.

Comparable data on public corruption efforts needed

To adequately evaluate the various techniques used to fight public corruption, the Section needs accurate and comparable data

on the Department's efforts. Comparable data cannot now be obtained because the Department does not have a standard public corruption definition and it depends on the memory of individuals involved in the investigations and prosecutions. If a standard public corruption definition was used the Department would have comparable data by office on the number of investigations, number of indictments, number of convictions, and the amount of resources devoted to public corruption activities. Without this information, the Section cannot evaluate the Government's overall attack on public corruption nor compare the effectiveness of techniques being used.

Each U.S. attorney's office and FBI field office reviewed defined public corruption differently. The definitions ranged from "all crimes committed by Government employees," which could include anything, to "misuse of public office by officials who are policy-makers or financial decision-makers." Without a standardized definition, the Department's ability to identify the amount of resources spent and the effectiveness of its efforts has been inhibited. (See pp. 7 to 11.)

Public corruption efforts need to be evaluated

Because public corruption is a department-wide criminal enforcement priority, the Department should be evaluating its public corruption efforts so that it can (1) identify what efforts the field components are currently undertaking, (2) determine how effective or ineffective these efforts have been, (3) identify effective techniques or organizational approaches, and (4) change techniques or organizational approaches which are either ineffective or not as effective as the other techniques or organizational approaches.

The Attorney General's Advocacy Institute has held four seminars on public corruption and fraud during which various case techniques were discussed and shared among law enforcement officials. However, these seminars did not evaluate the overall performance of the various entities involved in the fight against public corruption and fraud. (See pp. 11 to 13.)

Current efforts to attack public corruption

The Department's new Economic Crime Enforcement Program calls for establishing over the next 2 years Economic Crime Enforcement Units in 29 U.S. attorneys' offices nationwide. Each unit will process priority white-collar crime and public corruption cases in one to five judicial districts so that the entire country receives coverage.

The Department of Justice started implementing the program in March 1979, and currently is establishing 23 units. Over the next 2 years, it plans to allocate 145 full-time attorneys to the program. GAO believes, however, that Justice needs to establish an evaluation plan so that the effectiveness of this new program can be evaluated. Justice also needs to clearly delineate the role of the Public Integrity Section in relation to this new program. (See pp. 13 to 17.)

SENTENCING STATISTICS AND VIEWS OF FEDERAL JUSTICE OFFICIALS

At the Subcommittee's request, GAO analyzed the results of public corruption cases handled in the eight judicial districts visited. Because the case data was not readily available, GAO had to rely on Justice criminal enforcement officials to identify the public corruption cases.

Through this method, GAO identified 396 public corruption cases terminated during fiscal years 1977 and 1978 involving 581 defendants. Of these cases, 171 cases, or 43 percent, were terminated before trial either by the FBI or U.S. attorneys. The remaining 225 cases involving 338 defendants went to trial, resulting in 274 defendants being convicted and 58 percent of these being sentenced to prison. (See p. 32.)

RECOMMENDATIONS

To insure that public corruption activities are adequately coordinated and managed, the Attorney General should require that

--a standard definition of "public corruption" be delineated to enable consistent reporting of cases handled by the U.S. attorneys;

--a system be developed and implemented to identify and classify public corruption cases to enable future evaluation of the cases handled; and

--the Public Integrity Section take a more active role in managing the public corruption effort.

GAO also recommends, with regard to the Economic Crime Enforcement Program, that the Attorney General require the development of a plan that will enable the Department to fully evaluate the success of this new program and identify areas where improvements could enhance its efforts. The Attorney General also needs to clarify the roles of this program and its relationship to the responsibilities of the Public Integrity Section.

AGENCY COMMENTS

The Justice Department generally agrees that additional effort needs to be devoted to combating public corruption. However, it believes that while some of GAO's observations and criticisms are valid others are exaggerated or incorrect. Justice agrees that the report is correct in noting that statistics on public corruption efforts are neither accurate nor complete. However, it said GAO assigned too much significance to the impact this problem has on the quality of its implementation of the public corruption priority. GAO did not suggest that statistics alone be considered in a vacuum. However, GAO believes statistics are a first step, along with many other measures, to enable Justice to accurately evaluate its efforts to combat public corruption.

Justice also took issue with the need to develop a standard definition, the need for the Public Integrity Section to take a more active role in managing public corruption efforts, and the need for an evaluation plan for the recently established Economic Crime Enforcement Program. (See p. 19 and app. IV.)

GAO believes that as a first step Justice needs to define public corruption so a coordinated attack can be directed against it, that the Public Integrity Section should take an active role in coordinating and managing Justice's priority effort, and that an evaluation plan should be established so Justice has an adequate basis for assuring that its recent program is the best way to attack the problem. (See pp. 19 to 31.)

CHAPTER 1

INTRODUCTION

Public corruption diminishes the integrity of all Government officials and undermines the operations of Government. On July 12, 1978, the Deputy Attorney General, testifying before the House Subcommittee on Crime, described public corruption as having

> "* * * an invidious effect on the public's perception of the integrity of our political, economic, social and governmental institutions. Official corruption invariably involves breaches of trust, either in in the legal or moral sense, and such offenses generate in the public a deep sense of betrayal and disappointment. * * * Such public perceptions are fertile ground for the development of widespread public cynicism and a conviction that the entire economic and political system is corrupt and lacks integrity."

We reviewed the management of Justice's efforts to combat public corruption in detail at headquarters and in eight judicial districts (southern New York, New Jersey, District of Columbia, eastern Michigan, northern Illinois, northern Indiana, eastern Louisiana, and northern Texas), and, to a limited extent, in three judicial districts (eastern Pennsylvania, southern Florida, and northern California). We did not review the adequacy of individual public corruption prosecutions. Chapter 4 contains additional details on the scope of the review.

PUBLIC CORRUPTION PRIORITY

The Attorney General, on May 4, 1977, designated public corruption as one of the Department of Justice's four criminal enforcement priorities. The other three priorities are white-collar crime, organized crime, and narcotics. In an October 8, 1978, speech before the International Association of Chiefs of Police, the Attorney General, emphasizing the importance of the public corruption priority, said, "I believe that, * * * this administration has no task more important than restoring trust in our public offices."

No Federal statute specifically covers public corruption. Public corruption includes such crimes as bribery, conspiracy, mail and wire fraud, extortion, embezzlement, and tax evasion. Public officials can violate many laws and have their crime defined as public corruption. Appendix II lists the types of criminal violations involved in public corruption cases closed during fiscal year 1977 and 1978 in the eight judicial districts reviewed.

FEDERAL COMPONENTS WITH RESPONSIBILITY FOR COMBATING PUBLIC CORRUPTION

The responsibility for combating public corruption is dispersed throughout the Federal agencies. Although the Department of Justice has primary responsibility for investigating and prosecuting public corruption, other agencies are becoming more involved in combating public corruption.

Within Justice, the components responsible for public corruption efforts are the Criminal Division's Public Integrity Section and Office of Economic Crime Enforcement, the Federal Bureau of Investigation (FBI), and U.S. attorneys. Other Justice components, such as the Tax Division's Criminal Section and the Criminal Division's Fraud Section and Organized Crime and Racketeering Section, may become involved in public corruption matters while carrying out their designated missions.

Outside of Justice, the U.S. Postal Service, the Internal Revenue Service, and numerous program agencies have responsibilities to investigate public corruption violations. For example:

--Internal Revenue Service agents investigate violations of the Internal Revenue Act and other tax laws.

--Postal Service inspectors investigate mail fraud.

--Inspector Generals, established in 14 agencies, investigate violations related to their agencies' operations and programs.

Before public corruption was named a priority, the Public Integrity Section was created within the Criminal Division on January 14, 1976, to coordinate and assist

in the increasing Federal prosecutions of public officials. When the Attorney General established public corruption as a criminal enforcement priority, he designated the Section as the focal point to carry out the priority. The Section's current mission is to implement and coordinate a nationwide program for ensuring the integrity of both public office and the elective system at all levels of Government.

The FBI is the chief Federal investigative agency and, as such, is responsible for investigating violations of most Federal laws. Fifty-nine field offices conduct the investigations. In February 1978, the FBI started reporting the numbers of public corruption investigations it had pending. The FBI reported 574 pending public corruption investigations in February 1978, 892 in October 1978, 1,030 in January 1979, 1,208 in June 1979, and 1,185 in September 1979. The FBI also announced that 210 convictions in fiscal year 1979 resulted from its public corruption efforts.

The U.S. attorneys are the Attorney General's chief law enforcement representatives in the 95 judicial districts and, as such, are responsible for the enforcement of all Federal laws within their districts. The following chart shows the results of U.S. attorneys' public corruption efforts.

Federal, State, and Local Officials
and Others Prosecuted

	1975	1976	1977	1978	1979
Indicted	255	563	507	557	666
Convicted	179	380	440	409	536

CHAPTER 2

DEPARTMENT OF JUSTICE'S OVERSIGHT OF ITS PUBLIC CORRUPTION EFFORTS NEEDS TO BE IMPROVED

The Department of Justice designated the Criminal Division's Public Integrity Section as the focal point for coordinating and implementing the public corruption priority. The establishment of a centralized focal point in 1976 has resulted in major inroads in attacking public corruption activities. Since that time, the Section has grown from 8 to 30 attorneys and has increased it indictments of public officials from 255 in 1975 to 666 in 1979. This Section has also been responsible for nationally significant public corruption investigations and prosecutions throughout the country. However, the Section has been hampered by two factors: (1) the Department did not effectively plan what the field offices' public corruption efforts should be and (2) the Department lacks accurate and comparable data on its public corruption efforts. Such data would enable the Section to accurately evaluate the Department's efforts. As a consequence, each field unit determined what its public corruption efforts would be; this resulted in the units using varying techniques and organizational approaches.

To adequately perform its oversight mission and act as a focal point, the Section needs to be able to evaluate the overall effectiveness of the Department's public corruption efforts and to compare the offices' techniques or organizational approaches. Such evaluations and comparisons could improve the effectiveness and efficiency by identifying which approaches are most effective. The Section needs comparable data to be able to perform such evaluations and comparisons.

The Department of Justice's new program, the Economic Crime Enforcement Program, is an attempt to centralize management of the public corruption and white-collar crime priorities, by neutralizing potential jurisdictional conflicts, coordinating intelligence, and focusing specialized resources on all field aspects of white-collar crime enforcement. The program is too new for us to fully evaluate its efforts; however, we have identified several issues which need to be addressed by the Department to ensure the success of the program. The Department needs to develop an evaluation plan which will allow it to evaluate the success of

the new program and make changes where necessary. It must also clearly delineate the role of the Public Integrity Section as it relates to the responsibilities of this new program.

PLANNING NEEDS TO BE STRENGTHENED

When the four criminal enforcement priorities were announced, the Department attempted to obtain information on how the U.S. attorneys planned to implement the priorities; however, this attempt failed to provide meaningful information. The Department did not originally request similar plans from the FBI. Approximately 4 months later the Department recognized the omission and requested the data from the FBI. However, a Department official believed that the FBI's management-by-objectives report which was attached to its budget submission provided the data needed. This assumption was false because the management-by-objectives report addressed white-collar crime and not public corruption per se. Consequently, the Department ignored about half the Department's public corruption efforts--the FBI investigates most public corruption violations and the U.S. attorneys' efforts are directly linked to what the FBI investigates.

The Attorney General, in a November 14, 1977, speech to a U.S. attorneys' conference, asked each U.S. attorney to prepare a 2-year plan to include how the U.S. attorney planned to implement the four Department-wide criminal enforcement priorities. He followed this request with a December 8, 1977, memorandum to the U.S. attorneys, reiterating the request for the 2-year plan stating

> "They [the plans] will serve not only as a source of new ideas for the Department and other United States Attorneys' offices but also as a tool for better coordination and direction between the Department and your offices."

Fifty-seven of the 94 U.S. attorneys submitted 2-year plans. An official of the Executive Office for U.S. attorneys said that 51 were judged to be acceptable by the Executive Office and the Office of the Attorney General. Furthermore, he said that the Executive Office followed-up by letter with the U.S. attorneys who did not submit plans. The official, however, was unable to locate any copies of the followup letters. He then said that if no followup

letters, were sent, followup was at least done by the Deputy Attorney General at the U.S. attorneys conference held during the summer of 1978. This official also said that even though the 2-year planning process was abandoned in later years, the process helped to focus the U.S. attorneys' attention on the Attorney General's priorities.

Each U.S. attorney and FBI special agent-in-charge was left to determine his/her office's public corruption efforts. They decided what techniques their office would use to attack public corruption and what organizational arrangement would be best suited for their office. As a result, varying techniques and organizational arrangements were used in the offices we reviewed.

Two U.S. attorneys' offices and two FBI offices reviewed were using innovative techniques to attack public corruption. One U.S. attorney's office and one FBI office in the same judicial district are targeting a specific geographic area for an intensive effort to detect, investigate, and prosecute public corruption and white-collar crime. The area was targeted because it had a tradition of public corruption and white-collar crime. The second U.S. attorney's office was establishing, at the time of our review, a special technique for public corruption and fraud. The U.S. attorney assigned specific Federal programs to each assistant U.S. attorney. The assistant U.S. attorneys will develop expertise in their assigned programs and identify program areas which may be vulnerable to public corruption or fraud. The U.S. attorney said this technique should result in the earlier detection and prosecution of public corruption and fraud.

The second FBI office targeted two areas--a specific level of officials and Federal programs--for intensive efforts to detect and investigate public corruption. The special agent-in-charge said a specific level of officials was targeted because that level was involved in numerous past public corruption cases, and specific Federal programs were targeted because they have always been problem areas. The remaining U.S. attorneys' offices and FBI offices reviewed used the traditional, reactive approach to combat public corruption. These offices waited until a specific public corruption case was brought to them either through a complaint or information developed during another investigation.

The U.S. attorneys' offices and FBI offices reviewed used five organizational approaches to attack public corruption. The assistant U.S. attorneys in two offices and FBI agents in four offices were organized into units which specialized in handling only public corruption cases. In three U.S. attorneys' offices and three FBI offices, the assistant U.S. attorneys and agents were a little less specialized. They were organized into units which handled only white-collar crime or organized crime cases, both of which included public corruption cases. The agents in one FBI office were organized in two types of units--units which specialized in a specific type of public corruption violation and units which handled only white-collar crime or organized crime cases. The assistant U.S. attorneys in two offices did not specialize, but handled all types of cases. In the remaining U.S. attorney's office, the assistant U.S. attorneys were responsible for all cases in specific geographic areas.

COMPARABLE DATA ON PUBLIC CORRUPTION EFFORTS NEEDED

To adequately perform its oversight mission and act as a focal point, the Public Integrity Section needs to be able to evaluate and compare the effectiveness of the various techniques and organizational approaches used by the U.S. attorneys' offices and FBI offices. However, before it can evaluate and compare, the Section needs to obtain accurate and comparable information on the Department's public corruption efforts.

Although a variety of information on the Department's public corruption efforts is currently collected by various Department of Justice entities, this information is not accurate or comparable because the Department lacks a standard definition of what a public corruption case is and the information collected does not capture all data concerning public corruption cases. In March 1979, the Docket and Reporting Manual was revised and official corruption was defined, as follows:

> "010 Official Corruption. Criminal prosecution of public officials for misuse of office."

While the definition of official corruption is a step in the right direction, we believe it is incumbent on the Department of Justice to establish a more descriptive public corruption definition at least for reporting purposes so that accurate and comparable information is gathered. In addition, we believe a more disciplined reporting system is needed so that the Department of Justice does not have to rely on the memory of the officials involved in this area.

The Public Integrity Section, the Executive Office for U.S. Attorneys, and the FBI currently collect data on the Department's public corruption efforts. The Section uses an annual questionnaire to collect calendar year case statistics from all U.S. attorneys on public officials who were indicted, convicted, or awaiting trial at the end of the year. The Executive Office for U.S. Attorneys uses the U.S. Attorney's Docket and Reporting System to provide information on the number of matters and cases pending and terminated by broad case categories, one of which is official corruption. In addition, the Executive Office surveys the U.S. attorneys annually to collect data on the amount of attorney time spent in 18 general litigation categories, one of which is official corruption. In commenting on our report Justice said that the data collected is merely estimates, and it is used by the Executive Office for budget resource planning. The FBI headquarters surveys field offices quarterly regarding the number of public corruption cases pending, number of officials indicted and convicted, position held by the official, and case facts and prosecution results. None of the collection efforts produced accurate and comparable public corruption data.

Our review showed that the public corruption definitions used in the U.S. attorneys' offices and FBI offices varied widely. Examples of the variety of definitions follow:

--All crimes committed by Federal, State, or local government employees without regard to the employee's position or the crime involved.

--Misuse of public office by officials who are policy-makers or financial decision-makers.

--A case that involves public funds, a governmental unit, or a government employee in which the use or abuse of position and/or funds was involved.

--Criminal activity by elected or appointed Federal, State, or local officials. Crimes by government employees would be classified as white-collar crime, unless it was a complicated case and involved large sums of money.

--Breach of public trust by elected or appointed public officials or public employees, including attempts by private citizens to bribe or otherwise corrupt public officials.

--A violation of a Federal statute by a Federal, State, or local official.

--A case involving a public official who is at least a GS-10 or equivalent or a case involving a public official which is significant for some other reason.

Two U.S. attorneys' offices and one FBI office did not have a definition of public corruption. As a result of the variety of definitions, the information reported by the departmental field units is not compatible.

The FBI Director recognized the need for a standard definition for reporting purposes and, in a March 27, 1979, memorandum to the field offices, defined "public corruption." Stating that the term "public corruption" is very broad, he defined it as:

> "* * * a violation by an individual holding a position of responsibility and trust within the Federal, state, county, or city government who abuses the position of trust for personal gain."

While it could be subject to various interpretations, the definition should cull the cases involving low-level public officials and employees from future statistics reported by the FBI. However, unless the U.S. attorneys adopt a similar definition, their data will not be comparable to the FBI's.

All U.S. attorneys' offices and FBI field offices filed their closed cases in such a manner that the cases lost their identities as public corruption cases. As a result, the offices must rely on a file search to identify their public corruption cases for reporting purposes. It is unlikely that all public corruption cases would be identified

during such a process. One U.S. attorney's office reviewed, for example, reported to the Public Integrity Section that in calendar year 1977, the office had convicted 50 public officials and others for involvement in public corruption. However, this same office, at our request, could not identify the 50 cases reported to the Public Integrity Section. In fact, it could only identify 30 cases. This demonstrates that public corruption cases may lose their identity once the case is closed and agency officials must rely on memory.

The individual collection efforts used inadequate methods to collect public corruption data; as a result, data could not be compared. The inadequacies specific to individual collection efforts are as follows:

--The data provided by the Public Integrity Section's 1978 questionnaire may not be accurate because (1) there was no standard definition of a public corruption case and (2) the reported data was based on recall of the attorneys. It should be noted that the recent questionnaire format sent to U.S. attorneys' offices on December 3, 1979, may provide more consistent data on public corruption cases because the Department has asked for more definitive data.

--The Executive Office's resource allocation survey cannot provide accurate data because (1) the fiscal year 1978 data was based on a 21-month period instead of a 12-month period, (2) some U.S. attorneys did not respond to the survey (5 in 1978 and 13 in 1979), and (3) the data is only rough estimates since the U.S. attorneys do not maintain resource data by case.

--The FBI's system provides data on results of the cases but not the resources used to obtain the results.

The Executive Office's Docket and Reporting System does not provide accurate data because many of the criminal cases and matters reported by U.S. attorneys are not classified by program codes. Since fiscal year 1978 some progress in the reporting of cases and matters by program codes has been made. As of September 30, 1978, 63 percent of criminal cases handled and 61 percent of criminal matters

handled were not reported by program codes. These percentages declined to 38 and 36 percent, respectively, for the period ending September 30, 1979, and to 43 and 38 percent, respectively, for the three months ending December 31, 1979. An official of the Executive Office said that all but three U.S. attorneys are reporting some cases and matters by program codes. The Executive Office has requested the three U.S. attorneys to comply and will be contacting all U.S. attorneys during fiscal year 1980 to request their support in this endeavor.

The Acting Director of the Executive Office for U.S. Attorneys said Justice has long recognized this lack of comparable data on its public corruption efforts and since 1974, has attempted to replace the Docket and Reporting System. He said that in 1974, Justice began developing an Automated Caseload and Collections System which was subsequently installed in the northern district of Illinois and in several other districts. This was an on-line, interactive automated system which linked remote user terminals in the U.S. attorneys' office to the Justice data processing facilities in Washington, D.C. The system eventually accomplished automated docketing but was not flexible enough to provide statistical and managerial information. The collections portion was never successfully installed and the system was so expensive to operate that many desirable features could not be added. For these reasons, this experiment was terminated in fiscal year 1979.

The Executive Office also contracted with the Institute for Law and Social Research to analyze the information requirements of U.S. attorneys and headquarters officials. The analysis was completed in mid-1979 and a report was provided to the Executive Office. After reviewing the report, the Executive Office again contracted with the Institute to enhance the software for the Federal environment. The contract covers a one-year pilot phase of the project during which the system is to be developed and installed in four districts to test the automated, semi-automated and manual versions of the system. After the pilot phase is evaluated in late 1980, the Executive Office expects to begin planning for nationwide implementation of the system over the next several years.

PUBLIC CORRUPTION EFFORTS NEED TO BE EVALUATED

Because public corruption is a departmentwide criminal enforcement priority, the Department should evaluate its public corruption efforts so that it can (1) identify what efforts the field components are currently undertaking, (2) determine how effective or ineffective its efforts have been in combating public corruption, (3) identify those effective techniques or organizational approaches, and (4) make changes where the techniques or organizational approaches are either ineffective or not as effective as others.

None of the U.S. attorneys' offices or FBI's field offices reviewed evaluated its own overall public corruption work. They did not keep track of the number of public corruption cases handled, the results of those cases, or the resources expended. The U.S. attorneys and special agents-in-charge evaluated the progress of their public corruption efforts on a case-by-case basis while the individual cases were ongoing. Once the case was closed, however, it was filed in the U.S. attorney's office by case or docket number and in the FBI's office by type of violation.

The Chief of the FBI's White-Collar Crime Section, said that the FBI now has a quarterly reporting system in which pending public corruption cases are reported by each FBI field office. By comparing the quarterly reports, and determining which cases no longer appear on the most recent report, the FBI field offices can identify which public corruption cases have been closed. However, the quarterly reports do not report the amount of resources expended on each public corruption case.

A deputy section chief and an assistant section chief of the Public Integrity Section said that the Section adequately evaluates the Department's public corruption efforts through the Section's day-to-day operations. Each Section attorney is assigned a number of U.S. attorney offices to monitor. The number of offices assigned to each attorney ranges from 1 to 10 offices, depending upon the workload of these offices. The attorney monitors the U.S. attorney offices by reviewing all documents received by the Section from these offices--such as certain indictments, FBI reports, and administrative paperwork. The Section attorney reviews the documents to determine whether the U.S. attorney

is properly handling the individual case referred to in the documents. The Public Integrity Section has not given its attorneys specific guidance on how to make this determination; instead, determinations are based on the attorney's experience and expertise in the public corruption area. The deputy section chief said that over time, the Section attorney develops "a feeling" as to whether the U.S. attorney's office is doing a good job in the public corruption area. Agency officials told us that another method used by the Justice Department to understand and keep abreast of the various case techniques that are being used is the public corruption and fraud seminars. 1/ Four such seminars have been held over the last 2 years to discuss case techniques used and share experiences among law enforcement officials.

Although these methods may be acceptable for determining whether the U.S. attorneys are properly handling individual cases and sharing unique case techniques, they are not adequate for comparing one office's efforts with another or evaluating the Department's efforts as a whole. The purpose of comparing one office with another would be to identify those techniques which are the most efficient and effective. The best could be applied to other offices to improve their public corruption efforts. Such comparisons, however, need to be based upon tangible evidence, not upon "feelings" built up over time.

CURRENT EFFORTS TO ATTACK PUBLIC CORRUPTION

The Department's current initiative, the Economic Crime Enforcement Program, is too new for us to evaluate; however, we identified the following issues which the Department needs to address.

--An evaluation plan to determine how successful the new program is working so that changes, where necessary, can be made. It must also clarify the respective roles of the Public Integrity Section and the new program.

1/ The seminars are sponsored by the Criminal Division's Public Integrity and Fraud Sections through the Attorney General's Advocacy Institute.

--A plan to show whether the program's resource needs will be met through reassignment, new hirings, or a combination thereof.

The Economic Crime Enforcement Program

On February 8, 1979, the Attorney General issued an order which established the concept of specialized Economic Crime Enforcement Units in U.S. attorneys' offices. The goal of these units was to direct investigative and prosecutive resources for the white-collar crime and the public corruption criminal enforcement priorities. The order established an Office of Economic Crime Enforcement within the Criminal Division to direct this effort, with the Deputy Attorney General responsible for insuring compliance. The Deputy Attorney General approves and sets national, regional, and district priorities in the broad areas of white-collar crime and public corruption. All U.S. attorneys select, with the concurrence of the Assistant Attorney General in charge of the Criminal Division, specific priorities for their districts within the national priorities. The district's Economic Crime Enforcement Unit will handle only national or district priority white-collar crime or public corruption investigations and cases within the jurisdiction of the districts served.

The Assistant Attorney General for the Criminal Division said that the Economic Crime Enforcement Program was carefully considered by many components of the Department and fully discussed with U.S. attorneys and U.S. attorney groups, particularly the Attorney General's Advisory Committee of U.S. Attorneys, which made a number of suggestions concerning the program prior to its adoption by the Attorney General and the Deputy Attorney General.

On March 26, 1979, the Deputy Attorney General issued to all U.S. attorneys a memorandum which established a phased implementation plan for the program, listed the areas to be covered by units in each phase, and listed the responsibilities of the various components involved in the program. The implementation memorandum called for establishing Economic Crime Enforcement Units in 27 U.S. attorneys' offices nationwide. The number of units was later increased to 29 and their boundaries redefined. Each unit will be responsible for processing priority public corruption and white-collar crime cases in from one to

five judicial districts so that the whole country receives coverage. Over the next 2 years, the Department plans to allocate 145 attorneys full-time to this program.

Each unit will consist of a Criminal Division attorney, called the Economic Crime Enforcement Specialist, and assistant U.S. attorneys from the larger U.S. attorneys' offices in the unit's area. Specialists will coordinate and monitor the unit's operations and report to the Office of Economic Crime Enforcement for these functions. They may, also, prosecute cases and, for this purpose, will function as a special assistant U.S. attorney reporting to the U.S. attorney who is responsible for the case. The assistant U.S. attorneys assigned to the unit will prosecute the cases handled by the unit and will report to the U.S. attorney who is responsible for the case.

The Department of Justice is planning to have 23 units established by the end of fiscal year 1980. As of February 1980, Economic Crime Enforcement Specialists were assigned to seven units in Boston, Massachusetts; Columbia, South Carolina; Denver, Colorado; Los Angeles, California; New Haven, Connecticut; Philadelphia, Pennsylvania; and Portland, Oregon. Two Economic Crime Specialists were in the Cleveland, Ohio office. The Director said that the first eight units will have to operate on the basis of local priorities rather than national priorities because the Department has not yet established national priorities.

Evaluation method

The Department has not shown that the Economic Crime Enforcement Program will be more effective or efficient than the U.S. attorneys' current public corruption efforts. Although the Deputy Attorney General said in his March 26, 1979, memorandum that there is a "clear need" for the Federal Government to do more in the public corruption and white-collar crime area, we could find no analysis or evaluation of current U.S. attorney efforts to show that a change is needed and that the Economic Crime Enforcement Program would satisfy that need.

A Criminal Division official said that the Department has been examining and reviewing the Economic Crime Enforcement Unit concept for over a year; however, the Department has not performed any statistical studies on the concept because it does not lend itself to that type of study. He

added that the Department was piloting the program by establishing eight units so that it can evaluate weaknesses in the concept and develop a national strategy.

Although a pilot program is an acceptable method to prove a new concept and justify the program, its use presupposes that the Department has an evaluation plan or method for the pilot units. The Department does not now have an evaluation plan or method for the Economic Crime Enforcement Program; however, it started working on one in September 1979. The Director, Office of Economic Crime Enforcement, said that the units would be evaluated on how well they addressed certain problem areas. He would not estimate when such a plan would be completed. The projected plan does not take into consideration U.S. attorneys' current public corruption efforts and that these efforts may be more effective than the Economic Crime Enforcement Program if the new positions earmarked for the program were given to the U.S. attorneys. An adequate evaluation plan should show which program best uses the positions.

We believe that an evaluation plan should be developed so that the success of the program can be fully evaluated. Without an adequate evaluation plan the decision on whether to establish more than the original eight units will likely be based on the perception of success on the part of headquarters officials rather than an evaluation of the original eight units. This perception would likely be based on an increase in the number of cases prosecuted or the number of convictions obtained. This is not an adequate measure of program success because the program will increase the amount of resources expended in the area and, as a Deputy Assistant Attorney General in the Criminal Division said, the mere fact of adding personnel and other resources to an area will make the enforcement of that area more effective, that is, more cases, more convictions, etc.

Resource plan

The Department of Justice until recently had no plan which showed how the attorney positions needed for full program implementation would be obtained. In the March 26, 1979, memorandum, the Attorney General said that the Department expects to allocate 150 positions to the program over the next 2 years. As of September 5, 1979, 25 positions--10 from the Criminal Division and 15 from U.S. attorneys--had

been allocated to the program. Headquarters officials were not certain as to where the remaining positions would be obtained. A Deputy Assistant Attorney General said the Criminal Division hopes to provide more positions; however, he believes some will have to come from a request for new positions. The Director, Office of Economic Crime Enforcement said he has proposed reallocating positions from the Department as a whole, but that he has not had a reply to his proposal.

In our draft report, we informed the Department that it should plan how it will obtain the positions for the program, especially since the program is planned for full implementation by March 1981. If some of the positions are to be reallocated as the Director proposes, then the Department needs to assess the impact of ongoing programs losing these positions so that these programs are not adversely affected. In commenting on our draft report, the Department said its current plan provides for 145 attorneys in 29 U.S. attorney's offices. It also said that the Office of Management and Budget has tentatively approved an increase in the number of attorney positions allocated to the program (46 in fiscal year 1981). Justice said there are currently 57 assistant U.S. attorneys working in the Economic Crime Enforcement Units and more will be added as the remaining units are created. We compliment the Department on finally developing a detailed resource plan.

CONCLUSIONS

Justice's Public Integrity Section, the focal point for Department public corruption efforts, has been hampered in accomplishing its oversight mission. The causes are the lack of an effective planning process and the lack of comparable information on the Department's public corruption efforts. Such data would enable the Section to better evaluate Department efforts.

Because of the lack of an effective planning process, U.S. attorneys and FBI special agents-in-charge determined independently how their offices' public corruption efforts would be implemented. As a result, the offices used varying techniques and organizational approaches to attack public corruption.

The Department lacks accurate and comparable information on its public corruption efforts because (1) it does

not have a standard public corruption definition and (2) it depends on the memory of individuals involved in the investigations and prosecutions for the information it currently collects. Without such information, the Section cannot adequately evaluate the overall effectiveness of the Department's public corruption efforts or compare one office's techniques or organizational approach with another's. The Section, therefore, cannot identify where the Department's public corruption efforts are going, the problems being encountered, or changes needed to improve the efforts' effectiveness and efficiency.

The Department is currently implementing the Economic Crime Enforcement Program, which is designed to direct investigative and prosecutive resources in the public corruption and white-collar crime priority areas. The program is too new for us to fully evaluate its efforts; however, we have identified one issue that needs to be addressed before the Department proceeds with the full program. This issue concerns the need to develop an evaluation plan that can be used to evaluate how successful the new program is working. In addition, the Department needs to clarify the interaction and roles of the Public Integrity Section and the new program.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

To assure a more consistent attack on public corruption, we recommend that the Attorney General require that

--a standard definition of "public corruption" be delineated to enable the consistent reporting of cases handled by the 94 U.S. attorneys;

--a system be developed and implemented to identify and classify public corruption cases to enable future evaluation of the cases handled; and

--the Public Integrity Section take a more active role in managing the overall public corruption efforts.

We also recommend, with regard to the Economic Crime Enforcement Program, that the Attorney General require the development of a plan that will enable the Department to fully evaluate the success of this new program and identify areas where improvements could enhance its efforts.

The Attorney General should also clarify the roles of this program and its relationship to the responsibilities of the Public Integrity Section.

AGENCY COMMENTS AND OUR EVALUATION

The Justice Department fully agrees with the general assessment set forth in the title of the report that additional effort needs to be devoted to managing the public corruption effort. Justice stated that it finds certain observations and criticisms valid, stating that it has long been dissatisfied with its systems for collection of case statistics. On the other hand, Justice said other criticisms and conclusions are exaggerated or incorrect. Justice contends that our report alleges that despite the Attorney General's announcement that public corruption is one of the four enforcement priorities of the Department, it has not been given such priority. The Department said it cannot agree with this allegation. Our report does not allege that the Department has not given priority to its public corruption effort. In fact, we cited in the report the inroads made by the Department in attacking public corruption. However, we stated on pages 11 and 12 that because public corruption is a departmentwide criminal enforcement priority, the Department should evaluate its public corruption efforts so that it can (1) identify what efforts the field components are currently undertaking, (2) determine how effective its efforts have been in combating public corruption, (3) identify those most effective techniques or organizational approaches, and (4) suggest changes where the techniques or organizational approaches are either ineffective or not as effective as others.

Justice argues that our report totally ignores the vast amount of information provided by the Department concerning its very substantial success in the investigation of public corruption cases. We disagree with Justice because we utilized the information provided to us, such as, the Attorney General's Annual Report, and the Annual Reports of the U.S. Attorneys of the northern district of Illinois, the southern district of New York, the district of New Jersey, and the District of Columbia. In addition, we utilized the Monthly Report of Significant Criminal Cases and Matters of the Criminal Division. Where possible, we checked the case data provided to us by the U.S. attorneys offices to the cases listed in the annual and monthly reports.

Justice said that in May 1977, the Attorney General designated public corruption as one of the four criminal enforcement priorities. Since then, under the leadership of the former Attorney General and the present Attorney General, significant efforts to implement this priority have been made. Justice acknowledges that there is room for improvement and the Department is committed to such improvement. We agree and pointed out in our digest that the Department has made major inroads in attacking public corruption activities since its Public Integrity Section was established 1976. However, we noted that notwithstanding these increased activities, Justice needs to improve its monitoring of public corruption efforts and develop accurate and comparable data to show the extent of efforts undertaken by various Justice components. (See pp. 4 to 6.)

Justice argues that despite its record of achievement in combating public corruption, our report is highly critical of these efforts. It said a central theme of the report is the inadequacy of the Department's current systems for collecting statistics on public corruption cases. Justice states that it has for some time been aware of these deficiences and is committed to devising an improved and integrated system for all matters handled. Justice further states that these efforts pre-date our report and are continuing.

We acknowledged the problems Justice was aware of and trying to correct with regard to collecting statistical data. (See p. 11.) We further pointed out (see p. 10) that since fiscal year 1978, some progress has been made in the reporting of cases and matters by program codes under the Docket and Reporting System. As of September 30, 1978, 63 percent of criminal cases handled and 61 percent of the criminal matters handled were not reported by program codes. These percentages declined to 38 and 36 percent, respectively, for the period ending September 30, 1979, but rose to 43 and 38 percent, respectively, for the 3-month period ending December 31, 1979.

Justice agrees that the criticism of its record in compiling statistics on public corruption cases is valid, but said that we assigned too much significance to the impact this problem has had on the quality of its implementation of the public corruption priority. We disagree. Our report stresses that, for the Public Integrity Section to adequately perform its oversight mission and act as a focal point, the

Section needs to be able to evaluate the overall effectiveness of the Department's public corruption efforts and to compare the offices' techniques or organizational approaches. To perform such evaluations and comparisons, the Section needs comparable statistical as well as qualitative data. We also believe that such evaluations and comparisons will improve the effectiveness and efficiency of Justice's efforts by identifying which approaches are more effective and communicating these approaches to all entities involved in the effort to combat public corruption.

Justice disagrees with our conclusion on page 17 that because of a lack of an effective planning process, U.S. attorneys and FBI special agents-in-charge determined independently how their offices' public corruption efforts would be implemented. However, our report showed (see pp.5-7) that as a result of this independence the offices used varying techniques and organizational approaches to attack public corruption. Justice states that there has been and continues to be significant planning of measures to improve Justice's efforts to investigate and prosecute public corruption. Justice also stated that one aspect of the recently established Economic Crime Enforcement Program is to improve planning both at the district and national levels and that the increase in the number and quality of prosecutions of public officials have been due to these efforts. Justice further states that it views as proper and productive the efforts of U.S. attorneys and special agents-in-charge to tailor their public corruption programs to suit the particular needs and resources of the area they serve.

Justice agrees that a degree of centralized planning and oversight is valuable but believes that the Department should not impose on the U.S. attorneys specific organizational plans or the use of particular investigative techniques or prosecutive strategies. As part of their planning process to implement the public corruption priority, Justice cites the creation of the Public Integrity Section in 1976, the creation of the Public Corruption Unit at FBI headquarters in 1977, and establishment of a training program in white-collar crime for FBI agents in 1977. Also, it said that starting in 1978 training seminars have been given for FBI agents and Justice prosecutors in conjunction with the Fraud Section and the Attorney General's Advocacy Institute.

The Department said that in late 1977, it asked the U.S. attorneys to submit 2-year plans for the implementation of the four enforcement priorities. It acknowledged as stated in our report on page 5, that only 51 acceptable plans were submitted and, although this approach was later abandoned, it served to focus the attorneys' attention on the Attorney General's priorities. The Department said another planning initiative is the FBI and U.S. attorney team approach to public corruption investigations which involves bringing the U.S. attorney's office into the investigation at the earliest possible stage. The Department added that the most recent efforts are the Economic Crime Enforcement Program, the white-collar crime project, and plans to assist in the implementation of the Inspector General's Act.

We recognize that local conditions vary and, therefore, flexibility in Federal investigative and prosecutive approaches may be desirable. Since public corruption is a national priority, Justice needs to monitor what is being done in this area and, as a first step, needs to develop accurate and comparable statistics so that an effective evaluation can be performed. We believe that even if each field component should be left on its own to decide the approach best suited for its office to attack public corruption, guidance is needed from a centralized entity to ensure that the component's efforts assist in meeting Justice's total priority commitment to combat public corruption.

Justice contends that the report charges that by not requesting FBI plans, the Department ignored about half of its public corruption efforts--the FBI investigates most public corruption violations and the U.S. attorneys' efforts are directly linked to what the FBI investigates. Justice argues that the FBI has participated in planning and all FBI investigative priorities are discussed in detail with the Department and no priorities are implemented without the Department's concurrence. Justice argues that the report's allegation seems to be based on an erroneous understanding of the interplay between the work of the FBI and that of the U.S. attorneys' offices. The FBI does not independently investigate and submit its findings to the U.S. attorney for prosecution. The U.S. attorney's office becomes involved early in the investigations particularly in the public corruption cases as such cases must be promptly presented to the U.S. attorney for concurrence in proceeding with a full investigation. The use of a number of investigative techniques and the initiation of certain types of investigations require approval.

We disagree with Justice that our report on the planning efforts of the Department is based on an erroneous understanding of the interplay between the work of the FBI and that of the U.S. attorneys' offices. We are addressing the need for the Department to strengthen its planning efforts. We stated on page 5 that when the four criminal enforcement priorities were announced, the Department attempted to obtain information on how the U.S. attorneys planned to implement the priorities. The Department did not originally request similar plans from the FBI. Approximately 4 months later, the Department recognized this oversight and requested the data from the FBI. However, a Department official said he believed that an FBI management-by-objectives report attached to its budget submission provided the data needed for the FBI public corruption effort. This assumption was false because the report addressed white-collar crime and not public corruption per se. We agree that interplay between the U.S. attorneys' offices and the FBI field offices may involve some planning at the district level; however, we are addressing planning from a department-wide level. In addition, our review showed that there is a definitional problem between U.S. attorneys and the FBI field offices on what is public corruption, which can hinder the interplay between these offices.

Justice agrees that centralized oversight, planning and evaluation is valuable, but disagrees that it is either appropriate or productive for Washington to dictate the manner in which U.S. attorneys organize their offices, prosecute their cases, allocate their resources, or conduct investigations in conjunction with the FBI. Justice said that the 95 districts vary in size and character and the volume and extent of public corruption also differs widely. Additionally, resources at the disposal of the U.S. attorneys are not comparable. Justice argues that while the U.S. attorneys work within the framework of Departmentwide priorities and plans, the U.S. attorneys must tailor the organization of their offices, their enforcement priorities, and the allocation of resources to meet the needs of their districts. Therefore, a variation of approaches in attacking public corruption among districts is proper and necessary and to deny this variation and require uniformity in approach would be counterproductive. Justice concludes that the U.S. attorneys are in the best position to assess their enforcement priorities and application of resources. While the recently established Economic Crime Enforcement Program is to set nationwide priorities and plans, the U.S. attorneys working

with the Economic Crime Specialists in their districts are to take the lead in developing enforcement strategies best suited to their districts.

The fact that each U.S. attorney's office operates independently, is even more reason for the Justice Department to ensure that it has accurate and comparable data or information to thoroughly evaluate the efforts of each office and how each is helping to meet the Department's priorities. To insure that the public corruption program is fully achieved, we believe that the Public Integrity Section must fulfill its stated mission of implementing and coordinating the public corruption effort. We believe it is incumbent upon the Section to fully guide and manage the efforts of the various Justice components in combating public corruption. We agree with Justice's opinion that the Economic Crime Enforcement Program is a unified organizational approach to attacking the public corruption problem, and therefore, we are unable to reconcile the Department's adamant stance on the need for variance among U.S. attorneys when it has approved a program that will unify efforts. One of the benefits of this new program will be to enhance Justice's overall effort in establishing nationwide priorities and plans to combat public corruption. However, by establishing this new program the Justice Department has raised a new issue which must be addressed. This issue involves the need to define explicitly what the roles and responsibilities of the new program will be and how the Public Integrity Section which has similar responsibilities will interface with this program.

Justice argues that the report criticizes it for not pursuing innovative approaches and relying too much on a reactive response to public corruption. Justice contends that the Department is committed to the development of new organizational approaches, investigative techniques, and prosecutive strategies. However, Justice believes that there are two misconceptions that underlie the observations set forth in our report.

First, organizational approaches, investigative techniques and prosecutive strategies are not fungible. Organizational approaches must respond to the particular needs and resources of each district. Investigative techniques and prosecution strategies must respond to the facts and circumstances of each case. Creation of a special public corruption unit may be appropriate in a district which has a large number of attorneys and a significant public corruption problem. In a small district in which public

corruption is not a particular problem, creation of such a unit is not called for. Our criticism of the Department is that headquarters does not know nor has it tried to determine what organizational approaches, investigative techniques and prosecutive strategies are being used by the various units involved in the fight against public corruption. As a result Justice does not know which offices are using the best means to attack the problem nor does it know if large or small offices are devoting sufficient resources to the problem. Therefore, we have recommended that the Public Integrity Section take a more active role in managing the overall public corruption effort.

Secondly, the criticism of the reactive approach is at odds with the proper investigative and prosecutive role of the Department. Justice contends that it could not act as an insurer against public corruption and that the Department does not conduct investigations of public officials without credible indication of a violation of law. To do otherwise is to engage in fishing expeditions. More importantly, it is absolutely contrary to departmental policy. With regard to this second point, we are not suggesting that the Department pursue investigations of public officials in the absence of a credible indication of criminal activity. Rather, as the Department itself acknowledges, the predicate for an investigation may take a variety of forms, and public corruption may be detected in a variety of ways. In addition to detecting public corruption through the traditional sources of another investigation or through a specific complaint, Justice points out that public corruption may be detected or an investigation initiated on the basis of a confidential source and intelligence data.

On this point, and as noted on page 6 of this report, two U.S. attorneys' offices and two FBI offices reviewed integrated these different detection methods and targeted specific geographic areas and specific Federal programs that had a tradition of public corruption and white collar crimes. Although this approach is reactive to a degree, we considered it innovative and did not understand it to be violative of the departmental policy against "fishing expeditions." However, the targeting approach of these two U.S. attorneys and FBI offices contrasted sharply with the approach of the other offices reviewed, where the prevailing practice was to adopt a more passive posture and wait for a public corruption complaint to be brought to its attention.

Justice also notes in its comments that it has become clear in implementing the Attorney General's announced priorities that there are special challenges posed by the broad and rather diffuse area of law enforcement that is characterized as "white-collar crime and public corruption." One of those challenges is the need to coordinate the many investigative agencies that work in this area. Gaps in enforcement must be identified and filled, and duplication of effort must be avoided. Second, since the various investigative agencies differ widely in their sophistication in dealing with white-collar crime and public corruption, there is a need to stimulate their attention and supply training in necessary investigative techniques. Third, since white-collar crime and public corruption is a relatively new area for even the most sophisticated agents and prosecutors, there is a critical need for the development and dissemination of new techniques and sharing of experiences. Fourth, since public awareness of white collar-crime and public corruption is still relatively low in certain quarters, efforts at prevention and detection have been hampered. Programs to bring these problems to the attention of the public are urgently needed.

Justice said that the report criticizes it for failing to develop innovative approaches to the problems of public corruption. Justice said that the Economic Crime Enforcement Program is such an innovative approach in addressing two of the Department's priorities--white-collar crime and public corruption. We recognized in the report that Justice is taking steps to improve its overall management of the public corruption priority. Further, we stated on page 4 that the Department's new program, the Economic Crime Enforcement Program, attempts to centralize management of public corruption and white-collar crime priorities. This new program may allow for a more cohesive approach by all entities and not the fragmented approach that is now in existence in each of the 94 U.S. attorney offices and 59 FBI field offices. However, the program is too new for us to evaluate its efforts, but we did identify the need to develop an evaluation plan that would allow the Department to evaluate the success of this new program and make changes where appropriate.

Justice argues that we are questioning whether there is a clear need for the new approach represented by implementation of the Economic Crime Enforcement Program. We are not questioning Justice on whether there is a clear need for a different approach in handling public corruption, but

whether it has been established that the Economic Crime Enforcement Program will satisfy that need. What we are recommending is that before Justice fully proceeds with the Economic Crime Enforcement Program, it should evaluate whether this program will clearly meet its needs for managing nationwide the public corruption priority. The evaluation plan described by Justice is not an evaluation of whether the Economic Crime Enforcement Units will be superior to the U.S. attorneys' offices current public corruption efforts, but rather an evaluation of each economic crime unit's efforts. We believe that Justice needs to assure itself that it has embarked on the best method for attacking public corruption. We do agree that this new program will add a centralized approach to a now decentralized program.

Justice said that our report criticizes the Department for a lack of centralized planning and little coordination between the Department's investigative and litigating units. Justice contends that the Economic Crime Enforcement Program was generated by such planning and coordination, and its implementation will assure continuation of such efforts. Because public corruption is a national priority, Justice needs to monitor the priority and as a first step Justice needs to develop accurate and comparable statistics so that an effective evaluation can be performed. We believe that if each field component should be left on its own to decide the approach best suited for its office to attack public corruption, then guidance is needed from a centralized entity to ensure that the component's efforts assist in meeting Justice's total priority commitment to combat public corruption. We noted on pages 17 and 18 that the Department's Economic Crime Enforcement Program is designed to direct investigative and prosecutive resources in the public corruption and white-collar crime priority areas; possibly, this new program will emerge as the centralized entity to monitor the Justice public corruption efforts. However, Justice still must address what the role of the Public Integrity Section will be in relationship to the responsibilities of the Economic Crime Enforcement Program.

Justice states that the conception and implementation of the Economic Crime Enforcement Program is the result of centralized planning and coordination. The goal of the program is to have the field units set targets and priorities within the established national priorities. The goal of the program is not to develop a single approach and a single set

of priorities which is then to be imposed on all U.S. attorneys' offices. Justice argues that our report is critical of such diversity and that we view it as improper and counterproductive. However, we recommended on page 18 that the Attorney General should require the development of evaluation methods to determine whether the units will be superior to the U.S. attorneys' offices current public corruption efforts and allow the Department to fully evaluate the success of the new program and implement changes where necessary.

Justice agrees that there is much room for improvement in its efforts to compile statistics on public corruption cases. It said that its present efforts to improve its case reporting systems will continue, and its ultimate goal is to obtain uniform and complete statistics on cases handled by all components of the Department. Justice said that while compiling comparable and complete statistics on public corruption cases will assist it in evaluating the Department's efforts to implement the Attorney General's decision to place public corruption cases among the top enforcement priorities of the Department, it contends our report incorrectly assesses the significance of data collection in enhancing the quality of its efforts in this area. We did not intend to suggest that statistics alone be considered in a vacuum. However, we believe that the first step in gathering information should be the establishment of a standard definition and the collection of accurate and comparable data. We agree that there are many other measures besides statistics that need to be considered to enable Justice to accurately evaluate its efforts. However, if Justice were to gather the information proposed by us and itself and establish a standard definition, Justice would be in a much better position to accurately evaluate its public corruption efforts.

Justice agrees that definitions established by the FBI and the U.S. attorneys' offices, in conjunction with the Executive Office, are not identical. However, Justice said that it should be noted that the key element in the definition developed by the FBI and the Executive Office for U.S. Attorneys is the misuse of office by a public official. Justice agrees that the data generated by the two systems is not absolutely comparable. However, Justice argues that a single definition will not provide absolute comparability. We believe, however, that a standard definition will produce more accurate and comparable data than what is presently gathered. This greater accuracy and comparability will

enable Justice to better evaluate its public corruption efforts, and determine whether the offices are investigating and prosecuting quality matters and cases. It will also enable the Department to implement appropriate improvements where needed.

Justice agrees that the case statistics compiled by the Public Integrity Section are neither as complete or accurate as they could be. However, Justice said that our report indicates that the data reported by the Section is overstated because of an all-inclusive request for information on public corruption cases and that this is not correct. We disagree. What we said on page 10 is that the data provided by the Section's 1978 questionnaire may not be accurate because of the lack of a standard definition of a public corruption case and that reported data is based on recall of the attorneys, not on concrete facts. However, we noted that the recent questionnaire format sent to U.S. attorneys' offices on December 3, 1979, may provide more consistent data on public corruption cases, but it is too early to tell.

Justice agrees that the compilation of fully complete and comparable statistics on public corruption would give a better overview of the Department's progress in attacking public corruption. Justice states that a fully automated and integrated system will be a more efficient means of tracking large numbers of cases and will free its personnel from the time consuming searches for data. However, Justice argues that the best statistics are limited in value in evaluating the Department's progress in attacking public corruption both nationally and in each district, and in assessing the value of various organizational approaches and investigative and litigative techniques. Justice further argues that the success or failure of its efforts in this area cannot be measured adequately on a statistical basis, nor is it dependent on the quality of the Department's data collection system.

Justice continues its argument by saying that the extent of the public corruption problem is not susceptible to statistical measurement; statistics cannot fully reveal the quality of cases which are brought, the difficulty of the cases, the level of the officials involved, and the overall impact of the criminal activity involved. Evaluation of the effectiveness of particular investigative or prosecutive techniques and decisions as to when to use such

techniques are far too complex to be determined by statistical analysis and statistical formulas. Justice concludes that while statistics can play a role in evaluation and planning of the Department's efforts in bringing public prosecution cases, the best source of information comes directly from those participants in the Department's battle against public corruption. The qualitative information these participants provide is essential to the Department's efforts to effectively combat public corruption and the role of statistics is important but supplemental.

We agree with Justice that the mere act of gathering statistics will not necessarily improve the quality of Justice's prosecutive efforts. As we previously stated we did not intend to suggest that statistics alone be considered in a vacuum. We agree with Justice that there are many other measures besides statistics that need to be considered to enable Justice to accurately evaluate its efforts. However, if Justice were to gather the information proposed by us and itself and establish a standard definition, Justice would be in a much better position to accurately evaluate its public corruption efforts.

Justice says that our report charges that the Department does not evaluate the efforts being made in the field or the effectiveness of these efforts and that it does not identify effective techniques or suggest improvements when appropriate. Justice argues this is not true because U.S. attorneys and attorney supervisors keep abreast of the progress of the cases in their offices, and are fully aware of what investigative techniques and litigative strategies are being used and with what effectiveness. Justice further argues that information and suggestions are constantly exchanged in U.S. attorneys' offices. The attorneys in the Public Integrity Section monitor the progress of all public corruption cases, identify problems, make suggestions on the use of demonstratively effective techniques, and monitor the outcome of cases in order to assess the success of the use of new approaches. In addition, Justice argues that U.S. attorneys and their assistants, Criminal Division attorneys and FBI agents regularly meet to share experiences with new techniques.

We agree with Justice that the actions cited represent efforts to identify and transfer effective techniques, but they do not represent an overall evaluation of the Department's public corruption efforts. We pointed out (see pp. 11 and 12) that such methods were used by Justice in its attack

on public corruption. Although, these methods may be acceptable for determining whether the U.S. attorneys are properly handling individual cases and sharing unique case techniques, they are not adequate for evaluating the overall effort of each office's attack on public corruption nor does it provide an adequate basis to evaluate the Department's efforts as a whole.

Justice states that our report concludes that the Public Integrity Section has not exercised leadership in attacking public corruption. Justice argues that the basis for the report's indictment of the Section is that we perceive the appropriate role of the Public Integrity Section as being one of collecting and analyzing statistics. This is not now, nor has it ever been, the primary function of the Public Integrity Section. We disagree with Justice that we perceive the Public Integrity Section's primary duty as being one of collecting and analyzing data. We believe that the Section has the responsibililty to fully guide and manage the efforts of the various Justice components in combating public corruption. However, for the Section to be able to carry out its responsibility, the Section needs to evaluate the Department's public corruption efforts and to perform such evaluations the Section needs accurate and comparable data from all offices involved in the fight to combat public corruption.

Justice further argues that the Public Integrity Section attorneys provide support in the form of advice, assistance, coordination and training to U.S. attorneys' offices and investigative units which deal with public corruption. In addition, the Section attorneys directly participated in prosecution of a number of significant public corruption cases. Even though these actions taken by the Section in its attack on public corruption are important, they do not add up to fully guiding and managing the Department's public corruption efforts.

CHAPTER 3

SENTENCING STATISTICS AND OPINIONS OF FEDERAL JUSTICE OFFICIALS

At the Subcommittee's request, we analyzed the results of public corruption cases handled in the eight judicial districts visited. Because the case data was not readily available, we relied on the recall of Justice criminal enforcement officials. Through this method, 396 public corruption cases terminated during fiscal years 1977 and 1978 involving 581 defendants were identified. Of these cases, 171 cases, or 43 percent, were terminated before trial either by the FBI or U.S. attorneys. The remaining 225 cases involving 338 defendants went to trial, resulting in 274 defendants being convicted of which 58 percent were sentenced to prison. The average prison sentence was 2 years. Federal judges are responsible for determining the sentences of convicted defendants.

The views of Federal justice officials on the adequacy of the sentences given to convicted public corruption defendants varied. Some believed the sentences given were adequate; others believed they were inadequate. We did not attempt to render an opinion on the sentences given in the public corruption cases reviewed.

RESULTS OF THE PUBLIC CORRUPTION CASES IDENTIFIED

The eight judicial districts accounted for 396 public corruption cases involving 581 defendants (507 public officials and 74 nonpublic defendants). Of the 396 cases, 171 were terminated prior to trial. The FBI administratively closed 15 cases involving 19 public officials and 2 nonpublic defendants because its investigations could not prove that a Federal law had been violated or evidence was insufficient to warrant further investigation to sustain a violation. On the other hand, the U.S. attorneys accounted for the termination of 156 cases involving 215 public officials and 7 nonpublic defendants. The reasons given by the U.S. attorneys for declining to prosecute the 222 defendants follow:

Reasons cases were declined	Number of defendants		
	Public officials	Nonpublic officials	Total
Lack of evidence	110	4	114
No Federal violation	22	-	22
Lack of prosecutive merit	36	3	a/39
Other reasons (note b)	19	-	19
Not identified	28	-	28
Total	215	7	222

a/Eighteen of these cases were returned to the Federal, State, or local agency involved for administrative action.

b/Other reasons include pretrial diversion, defendant indicted in a local case, witnesses not credible, defendant cooperated with U.S. attorney, uncooperative witness, statute of limitation exceeded, and not in the Government's interest to prosecute.

Of the 338 defendants (225 cases) who went to trial, 274 were convicted (see app. II) of which 138 had pled guilty, while 64 were not convicted (see app. I). Our analysis showed that 100 (36.5 percent) defendants received suspended sentences while 160 (58.4 percent) defendants were imprisoned. In addition, 12 defendants were convicted but the sentencing information was not available. Also, 2 defendants were convicted and received fines only.

Of the 100 defendants who received suspended sentences, 61 were fined, required to make restitution, and/or required to provide uncompensated community service. The fines ranged from $200 to $8,000, while the restitution ranged from $87 to $29,000. The uncompensated community service required of defendants ranged from 200 to 416 hours.

Of the 160 defendants sentenced to prison, 101, or 63.1 percent, received sentences of less than 2 years. The length of prison sentences ranged from 7 days to 25 years, resulting in an average length of 2 years. The following table shows the length of sentence by public and nonpublic officials.

Length of sentence (in years)	Number of defendants			Percent of total sentenced to prison
	Public officials	Nonpublic officials	Total	
Less than one	64	4	68	42.5
One but less than two	29	4	33	20.6
Two but less than three	13	3	16	10.0
Three but less than five	15	7	22	13.8
Five or more	16	5	21	13.1
Total	137	23	160	100.0

Of the 160 defendants sentenced to prison, 62 defendants (49 public and 13 nonpublic) also received a fine, were required to make restitution, and/or were required to provide uncompensated community service.

OPINIONS OF FEDERAL JUDGES AND LAW ENFORCEMENT OFFICIALS

The adequacy of the sentences, given to convicted public corruption defendants was discussed with Federal judges and prosecutive and investigative officials. These sentences included all forms of punishment, not just prison. Chief Federal judges in six of the eight judicial districts and officials of two U.S. attorneys' offices and one FBI field office said that the sentences given to convicted public corruption defendants were adequate. On the other hand, officials of four U.S. attorneys' offices and four FBI field offices believed the sentences were inadequate. Officials of two U.S. attorneys' offices and three FBI field offices did not express an opinion on the adequacy of the sentences. The chief Federal judges in two districts visited were not available for comment.

Comments made by Federal judges and law enforcement officials who believed that the punishment suffered by the defendants were adequate follow.

--One judge said that in contrast to first-time offenders in other criminal areas who are usually not sentenced or even prosecuted, most first-time public corruption violators are prosecuted and sentenced.

--Another judge said that the white-collar criminal is victimized by the media, the prosecutors, and the public. Therefore, he said, public officials who violate their position of trust are more likely to receive a prison sentence because of their visibility and the resulting public outcry. Under similar circumstances, blue-collar offenders with no previous record are more likely to be put on probation.

--A U.S. attorney said the indictment and the process of trial are often enough of a deterrent. Public officials usually lose their jobs, and professionals lose their licenses. Fear can be more effective than a stiff prison sentence.

--An FBI special agent-in-charge said that individuals convicted of public corruption receive a less severe sentence than street criminals because only money is involved and not violence.

Examples of the comments made by law enforcement officials who believed the public corruption sentences were inadequate follow.

--A U.S. attorney said that too often citizens see a person convicted of bribery or a public official convicted of defrauding the public of thousands of dollars receive probation or a maximum of 1 to 3 years in prison. Such sentences breed contempt for the law and persons who might otherwise have been deterred are instead encouraged to violate the law with little fear of the consequences, even if apprehended and convicted.

--Another U.S. attorney said he does not believe the sentences are adequate to deter public corruption. The public becomes cynical when it sees these officials receiving light sentences.

--A first assistant U.S. attorney said that some of the general public believe corrupt public officials receive due punishment when their crime is revealed--they lose their job, they are embarrassed, and their families suffer. He believes this attitude is unfair. Public officials who breach the public trust do not deserve any less punishment just because they have been embarrassed.

--An FBI special agent-in-charge said the sentences were inadequate because corrupt public officials do not receive prison time often enough. He added that there is no better deterrent to public corruption than to have the violators mix in prison with hard-core criminals.

CHAPTER 4

SCOPE OF REVIEW

To review Justice's efforts in combating public corruption, we interviewed Department of Justice officials from the Criminal Division, Tax Division, Executive Office for U.S. Attorneys, and FBI regarding the policies, procedures, and management of their public corruption efforts. We did not review the adequacy of individual public corruption prosecutions.

We conducted our fieldwork in the northern districts of Illinois, Indiana, and Texas; the eastern districts of Louisiana and Michigan; the southern district of New York; the district of New Jersey and the District of Columbia. Our review included:

--Interviewing U.S. attorneys, assistant U.S. attorneys, FBI officials, strike force attorneys, chief judges, and other law enforcement officials,

--Examining available records on public corruption cases for fiscal years 1977 and 1978,

--Reviewing written investigative and prosecutive guidelines,

--Analyzing the sentences given to individuals convicted of public corruption.

At the request of the Chairman, Subcommittee on Crime, House Committee on the Judiciary (see app. III), we performed limited work at the U.S. attorney, FBI, and strike force offices in the eastern district of Pennsylvania, the southern district of Florida, and the northern district of California.

APPENDIX I

REASONS FOR ACQUITTALS AND DISMISSALS IN CASES CLOSED DURING FISCAL YEARS 1977 AND 1978 IN EIGHT JUDICIAL DISTRICTS REVIEWED BY GAO

Reason for acquittals and dismissals	Acquittals and dismissals				
	Federal officials	State officials	Local officials	Nonpublic officials	Total
Not guilty	2	1	8	9	20
Mistrial	-	-	6	2	8
Defendant not directly responsible for alleged criminal violations	-	-	3	-	3
Preindictment delay prejudiced defense case	-	-	2	-	2
Defense motion sustained	1	-	1	-	2
Government motion sustained	-	-	1	4	5
Defendant allowed to withdraw plea of guilty	1	-	-	1	2
Defect in indictment	-	-	1	-	1
Incompetency of defendant	-	-	1	-	1
Death of defendant	-	-	1	-	1
Witness could not be extradicted	1	-	-	-	1
Plea bargaining	1	-	-	-	1
Indictment dropped on appeal	-	-	1	-	1
Not in file	5	3	7	1	16
Total	11	4	32	17	64

NUMBER OF PUBLIC AND NONPUBLIC OFFICIALS CONVICTED IN CASES CLOSED DURING FISCAL YEARS 1977 AND 1978 IN EIGHT JUDICIAL DISTRICTS REVIEWED BY GAO

Type of criminal violations (note a)	United States Code	Officials				
		Federal	State	Local	Nonpublic	Total
Misprision of felony	18 U.S.C. 4	-	-	2	-	2
Bribery and theft	18 U.S.C. 201	24	-	2	1	27
Conflict of interest	18 U.S.C. 208	1	-	-	-	1
Deprivation of rights under color of law	18 U.S.C. 242	-	-	20	-	20
Conspiracy to defraud the Government with respect to claims	18 U.S.C. 286	1	-	-	2	3
False, fictitious or fraudulent claims	18 U.S.C. 287	6	-	-	-	6
Conspiracy	18 U S.C. 371	10	3	27	32	72
Contempts constituting crimes	18 U.S.C. 402	1	-	-	-	1
Promise of employment or other benefit for political activity	18 U.S.C. 600	1	-	-	-	1
Embezzlement and theft of public money, property or records	18 U.S.C. 641	6	1	3	-	10
Officer or employee of United States converting property of another	18 U.S.C. 654	1	-	-	-	1
Lending, credit and insurance institutions	18 U.S.C. 657	1	-	-	-	1
Theft or embezzlement from manpower funds	18 U.S.C. 665	-	-	8	-	8
Instigating or assisting escape	18 U.S.C. 752	2	-	-	-	2
Collection of extensions of credit by extortionate means	18 U.S.C. 894	-	-	3	2	5
Fraud and false statements	18 U.S.C. 1001	3	-	3	-	6

a/Those individuals convicted of more than one violation were entered into this chart by the most significant violation determined by either the first charge the individual was convicted under or the charge carrying the largest prison sentence.

APPENDIX II

NUMBER OF PUBLIC AND NONPUBLIC OFFICIALS CONVICTED IN CASES CLOSED DURING FISCAL YEARS 1977 AND 1978 IN EIGHT JUDICIAL DISTRICTS REVIEWED BY GAO

Type of criminal violations (note a)	United States Code	Officials				
		Federal	State	Local	Nonpublic	Total
Intent to defraud or false entries - Department of Housing and Urban Development transactions	18 U.S.C. 1012	1	-	-	-	1
Mail fraud	18 U.S.C. 1341	2	5	2	7	16
Fraud by wire, radio, or television	18 U.S.C. 1343	-	-	1	-	1
Counterfeiting	18 U.S.C. 1426	1	-	-	-	1
Obstruction of criminal investigations	18 U.S.C. 1510	-	-	1	-	1
Obstruction of State or local law enforcement	18 U.S.C. 1511	-	-	1	-	1
False declarations before grand jury or court	18 U.S.C. 1623	-	-	3	-	3
Obstruction of mails	18 U.S.C. 1701	7	-	-	-	7
Theft or receipt of stolen mail matter	18 U.S.C. 1708	1	-	-	-	1
Theft of mail matter by officer or employee	18 U.S.C. 1709	13	-	-	-	13
Misappropriation of postal funds	18 U.S.C. 1711	3	-	-	-	3
Interference with commerce by threats or violence	18 U.S.C. 1951	-	5	20	3	28
Interstate and foreign travel or transportation in aid of racketeering enterprise	18 U.S.C. 1952	-	1	4	-	5
Prohibition of illegal gambling businesses	18 U.S.C. 1955	-	-	6	-	6
Prohibited racketeering activities	18 U.S.C. 1962	-	-	5	-	5

a/Those individuals convicted of more than one violation were entered into this chart by the most significant violation determined by either the first charge the individual was convicted under or the charge carrying the largest prison sentence.

APPENDIX II

NUMBER OF PUBLIC AND NONPUBLIC OFFICIALS CONVICTED IN CASES CLOSED DURING FISCAL YEARS 1977 AND 1978 IN EIGHT JUDICIAL DISTRICTS REVIEWED BY GAO

Type of criminal violation (note a)	United States Code	Officials				
		Federal	State	Local	Nonpublic	Total
Bank robbery and incidental crimes	18 U.S.C. 2113	-	-	1	-	1
Aid and abetting mail robbery	18 U.S.C. 2114	1	-	-	-	1
Bribery of or gifts to inspectors	21 U.S.C. 622	4	-	-	-	4
Willful failure to file return, supply information or pay tax	26 U.S.C. 7203	-	-	3	-	3
Fraud and false statements - income tax	26 U.S.C. 7206	-	-	4	1	5
Offenses by officers and employees of the United States	26 U.S.C. 7214	1	-	-	-	1
Embezzle, misapplies or steal Office of Economic Opportunity funds	42 U.S.C. 2703	-	-	1	-	1
Total		91	15	120	48	274

a/Those individuals convicted of more than one violation were entered into this chart by the most significant violation determined by either the first charge the individual was convicted under or the charge carrying the largest prison sentence.

APPENDIX II

APPENDIX III

JOHN CONYERS, JR.
1ST DISTRICT, MICHIGAN

COMMITTEES:
JUDICIARY
CHAIRMAN
SUBCOMMITTEE ON CRIME
GOVERNMENT OPERATIONS

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April 26, 1978

78 APR 28 P 2:24

Mr. Elmer B. Staats
Comptroller General
of the United States
General Accounting Office
Washington, D.C. 20548

Dear Mr. Staats:

As Chairman of the House Judiciary Subcommittee on Crime and as the Representative in Congress for the 1st District of Michigan (Detroit and Highland Park), I have long been concerned with the state of the federal government's law enforcement response to the problems of political corruption and white collar crime.

I therefore hereby request on behalf of the Congress of the United States that the General Accounting Office undertake two studies and investigations:

1) The roles and interrelationships of all federal departments, agencies, and bureaus engaged in the detection, investigation, and prosecution of political corruption.

2) A comparative study of the total federal law enforcement resources utilized in the detection, investigation and prosecution of the so-called "index"crimes or "street" and "violent" crimes as opposed to the federal resources utilized in the detection, investigat on and prosecution of "white collar crime" and political corruption. (See GAO note below.)

The scope and precise content of these studies and investigations can be worked out between the staffs of the Subcommittee on Crime and the General Accounting Office.

Sincerely,

John Conyers
Member of Congress

Note: The request was handled as two separate reviews. This report covers paragraph 1. The information requested in paragraph 2 was covered in GAO's report, "Resources Devoted by the Department of Justice to Combat White-Collar Crime and Public Corruption," (GGD-79-35, 3/19/79).

APPENDIX IV

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

MAY 12 1980

Mr. Allen R. Voss
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Voss:

This is in response to your request to the Attorney General for comments on the draft report relating to public corruption entitled "Justice Needs to Further Its Inroads in Attacking Public Corruption."

The Department of Justice (Department) fully agrees with the general assessment set forth in the title of the report in that we must continue to improve our efforts in investigating and prosecuting public corruption. There is also validity in certain other observations and criticisms set out in the report. For example, the Department has long been dissatisfied with its systems for the collection of case statistics. On the other hand, the Department views other criticisms and conclusions contained in the report as exaggerated or incorrect. Most importantly, the Department cannot agree with the allegation implicit in the report as a whole that despite the Attorney General's announcement that public corruption is to be one of the four enforcement priorities of the Department, it has not been given such priority.

We are deeply concerned that the General Accounting Office (GAO) report totally ignores the vast amount of information provided by the Department concerning its very substantial success in the investigation of public corruption cases. In this response we will present highlights of that information and would encourage GAO to review other materials readily available in the interests of providing a true and accurate account of the Department's efforts in this most important area of law enforcement. Some of these materials are: the Attorney General's Annual Report, the Annual Reports of the larger United States Attorneys' Offices such as those in the Southern District of New York, New Jersey, the District of Columbia, and others, and the monthly reports of the Criminal Division.

Part I of this response describes our record of achievement in attacking public corruption. Part II addresses the more specific criticisms and conclusions set forth in the report.

PART I

THE RECORD OF THE DEPARTMENT OF JUSTICE IN COMBATTING PUBLIC CORRUPTION HAS BEEN ONE OF CONSIDERABLE SUCCESS AND ACHIEVEMENT

In the opening paragraph of the digest of the GAO report, it is stated that "...the Department of Justice has been unable to demonstrate that public corruption efforts are a priority." In May of 1977, the Attorney General designated public corruption as one of the Department's four criminal enforcement priorities. Since that time, under the leadership of former Attorney General Bell and present Attorney General Civiletti, the Department has made significant efforts to implement this priority. While we certainly acknowledge that there is room for improvement and we are committed to such improvement, our past efforts have been rewarded by considerable success in increasing the effectiveness of our attack on corruption among public officials.

There is no question but that the Department as a whole is devoting more resources to the Attorney General's priority effort against public corruption than were allocated several years ago. More investigations are being conducted and more prosecutions are being brought including many of officials at the highest levels of government. Significant advances have been made in attacking serious corruption in major cities such as New York and Chicago. New specialized units have been created in the Criminal Division and the Federal Bureau of Investigation (FBI) to centralize our efforts in the public corruption area. The United States Attorneys have demonstrated their full support for the public corruption priority, and have exercised laudable leadership not only in implementing this priority in their individual districts, but also in actively assisting and advising the Attorney General in setting priorities and formulating and putting into effect plans on a Department-wide level. The efforts of the United States Attorneys, and the Attorney General's Advisory Committee of United States Attorneys in particular, have been significant in assisting other federal departments and agencies in focusing on this priority and in improving coordination with these departments and agencies in developing cases which will be prosecuted by the Department of Justice. Successful training programs have been developed for those who investigate and prosecute official corruption. New investigative techniques and prosecutive strategies have been developed and brought to the attention of all components of the Department. Significant inroads have been made in bringing successful federal prosecutions against corrupt state and local officials. The progress of all public corruption cases is now

monitored by a single section within the Criminal Division. The FBI field offices and the United States Attorneys' Offices have developed a team approach to public corruption cases that has enhanced effectiveness and improved efficiency in the use of resources. New initiatives such as the Economic Crime Enforcement Program, which will improve planning and evaluation at both the district and national levels, have been developed and are being set into motion.

Statistics cited in the report itself demonstrate that the Department is committed to implementing the public corruption enforcement priority and that this commitment has resulted in a significant increase in the number of public corruption cases which are investigated and prosecuted. The number of indictments of public officials rose from 255 in 1975 to 666 in 1979. In a period of 18 months, the number of public corruption cases being investigated by the FBI increased from 574 in February 1978 to 1,185 in September 1979.

These statistics demonstrate the increase in the number of public corruption cases pursued by the Department, but they do not indicate the quality of those cases. In the last three years, the Department has obtained indictment and conviction of five congressmen for corrupt acts committed in connection with their capacity as elected officials -- Richard Tonry, for agreeing to accept improper campaign contributions and promising federal benefits in return for contributions;1/ Richard Hanna, for conspiracy to accept bribes and defrauding the United States; Charles Diggs, for mail fraud and false statements in connection with a salary kickback scheme; Joshua Eilberg, for violating a criminal conflict of interest statute; and Daniel Flood, for a six-year long conspiracy to elicit contributions from persons seeking to do business with the federal government. In addition, we sought and obtained indictments against three other congressmen, although we did not succeed in obtaining convictions. These were the Passman, Galifiankis, and Leach cases.

The Abscam investigation involving allegations against seven congressmen and one senator is continuing.

Investigations of allegations concerning persons close to the White House has been extensive and painstaking. A Special Counsel was appointed to investigate the finances of the Carter Warehouse. An 18-month grand jury investigation was conducted to examine every aspect of an allegation concerning Robert Vesco's fugitive status and a White House official. The Department requested the appointment of a special prosecutor to investigate alleged cocaine use by the White House Chief of Staff.

1/ As an outgrowth of this case, the Department won a significant victory in the establishment of a Fifth Circuit precedent upholding the imposition of a condition of probation which would prohibit a defendant from running for public office during the course of his probation.

The following cases, drawn from the case reports prepared by the United States Attorneys' Offices and compiled by the Executive Office for United States Attorneys and from case reports prepared by the Public Integrity Section for the years 1978 and 1979, illustrate the variety and quality of public corruption cases being brought by the Department against federal officers and employees, persons administering federally funded programs, and state and local officials. They represent only a small part of the total number of such cases successfully prosecuted in those years.

Cases involving federal officials and persons administering federal funded programs.

--During 1979, the Maryland United States Attorney's Office convicted 47 persons for various federal criminal offenses arising out of that Office's investigation of fraud in the General Services Administration (GSA). The investigations and prosecutions disclosed a widespread fraudulent scheme involving bribery by suppliers of GSA and others of federal employees to approve false invoices for goods never supplied to the government. The scheme involved several millions of dollars of false claims to the government.

--A former Ambassador to the Dominican Republic was convicted for using government personnel and materials to build a private home.

--A high ranking representative to the Great Lakes Regional Commission was convicted for using federal program funds to aid Democratic Farmer Labor political candidates.

--The former Assistant Director of the Bureau of Printing and Engraving was convicted for criminal conflict of interest.

--A three-year investigation conducted by the United States Attorney's Office in the Southern District of New York and the Inspection Service of the Internal Revenue Service (IRS) into the operations of the Valuation Group of the IRS, the unit responsible for the valuation of real estate and personal property for federal estate and gift tax purposes, resulted in convictions of two IRS supervisors and two IRS appraisers for taking bribes and gratuities for undervaluing property.

--In four related prosecutions, six defendants, including the executive director and the comptroller of a large federal anti-poverty agency, were convicted of crimes including the embezzlement of federal anti-poverty funds and conspiracy to defraud the government in a kickback scheme concerning the award of contracts.

--The second highest official of the Chicago area Depart- of Housing and Urban Development (HUD) office and two co-defendants were convicted of bribery to secure favorable treatment of contractors.

--Two Drug Enforcement Administration agents were convicted for stealing and selling confidential Department information to facilitate a cocaine and marijuana smuggling scheme.

--The former head of the Veterans' Administration (VA) Real Estate Appraisal and Property Management Section was indicted for 54 counts of conspiracy, false statements, forgery, and self-dealing for directing government brokerage and appraisal contracts and VA buyers to, and receiving kickbacks from, a real estate corporation of which he was an officer.

--In New Jersey, 22 federal employees were indicted for mail fraud involving false claims for welfare benefits of over $100,000.

--A former Department of Energy (DOE) auditor was convicted in Northern Texas of soliciting and accepting funds from Pride Refining, Inc., and was sentenced to two years imprisonment. The defendant had performed an audit on Pride, and upon resigning from DOE approached Pride and solicited funds in return for his submitting an audit to DOE favorable to Pride.

--A joint investigation by the Office of Investigation of the Department of Agriculture and the FBI into payoffs to Department of Agriculture meat and poultry inspectors resulted in convictions of 17 inspectors, including a supervisor, for soliciting and accepting bribes and gratuities from 21 companies.

--A United States Customs inspector and 14 co-defendants were convicted of crimes involving bribery, conspiracy, and smuggling illegal aliens into the United States.

--The director of the New York City Food Stamp Program pled guilty to charges concerning his embezzlement of $13,000 in federal funds. The defendant was responsible for a 500 million dollar food stamp program.

Cases involving state and local officials.

A significant aspect of the Department's implementation of the Attorney General's priority in the area of public corruption has been the inroads made in attacking corruption at the state and local level. Much of the Department's success in this area is due to the careful planning and monitoring of the use of the Hobbs Act, wire and mail fraud

statutes, and the racketeering statutes. We have been able to capitalize on our initial successes in the use of these statutes to attack state and local corruption, and through training and coordination within the Department our successes with these prosecutive strategies are growing.

The following 1978 and 1979 cases represent examples of the Department's achievements in the area of state and local corruption. Again, they constitute only a sample of all such cases brought within those years.

--Following a two-year investigation by the FBI, the United States Attorney's Office in Northern Illinois convicted 24 inspectors and supervisors of the City of Chicago Bureau of Electrical Inspection. The defendants were each indicted on charges of extortion from approximately 37 electrical contractors. Those convicted represented approximately one-third of the employees of the City's Bureau of Electrical Inspection.

--A former Special Advisor to the former governor of Tennessee was convicted of conspiring with a Special Agent of the Tennessee Alcoholic Beverage Commission to use their positions to extort protection money from a nightclub operator. The former Special Advisor promised to use his position and influence to cause the transfer or termination of the Commission's agents who had been responsible for prosecuting the club owner.

--The former Adjutant General of the State of Iowa was convicted in Southern Iowa by a jury on 15 felony counts, including conversion of Government property, false statements, and destruction of Government documents. His conviction marked the end of a lengthy investigation of the Iowa National Guard which resulted in a total of 93 convictions for crimes ranging from recruiting violations to forgery and electronic eavesdropping.

--Following a year-long investigation and an extensive inquiry before a federal grand jury in Connecticut, the former Property Control Officer for the State Board of Education and a local contractor were charged in a 56-count indictment with conspiracy to defraud the United States, conspiracy to steal Government property, conspiracy to commit mail fraud, theft of Government property and mail fraud. The investigation commenced in 1977 after lack of proper accounting was discovered with regard to excess Federal property purportedly received by the Board of Education from the New England Regional Commission. The indictment charged the defendants with converting to their use a total of more than $200,000 of that property. The defendants pled nolo contendere to the various counts of the indictment.

--Former governor of Maryland, Marvin Mandel, was defeated in his attempts to secure reversal of his conviction for mail fraud and racketeering. The groundwork for this

success was laid by the United States Attorney's Office in Maryland in preparing for and prosecuting this case. The Appellate Section of the Criminal Division played a major role in the successful disposition of this lengthy and complex appeal.

--A Deputy and an Assistant Commissioner of New York City's Department of Public Works were convicted on two counts of extortion and conspiracy for taking a $25,000 payment in return for assisting a contractor in obtaining a million dollar city contract.

--Two long term members of the Illinois House of Representatives were convicted of extorting money from members of the private employment agency industry to assure passage of a favorable bill for the industry.

--Additional convictions of elected State officials included those of a powerful Mississippi State Senator for conspiracy to defraud the United States and a prominent Pennsylvania State Representative for election law violations.

--Four inspector supervisors of the City of Chicago Bureau of New Construction were convicted of tax violations, conspiracy, and extortion in violation of the Hobbs Act in connection with the acceptance of over 1,200 bribes during the period 1968-1976 from garage and home improvement contractors.

--A Illinois mayor was convicted of racketeering and extortion of more than $85,000 in payoffs from businesses seeking favorable zoning changes. The mayor's two businesses were forfeited as "enterprises" under the racketeering statute. This was one of several successful prosecutions brought by the United States Attorney's Office in Northern Illinois concerning similar payoff schemes involving local officials.

--Police chiefs and sheriffs in Alabama, Mississippi, Indiana, Illinois, South Carolina, and Kentucky were convicted in federal courts for acts of corruption.

The United States Attorneys' Offices, which are charged with primary responsibility for litigating federal cases, prosecuted the great majority of public corruption cases. In addition, the Public Integrity Section of the Criminal Division shared in the prosecution of a signficant number of cases as well as having sole responsibility for developing a number of cases including several of national significance (e.g., the Koreagate matter involving Tongsun Park and the Congress).

The Department's achievement in successfully prosecuting cases such as those cited above are the direct result of a concerted effort by all components of the Department to address public corruption as a prime priority.

PART II

RESPONSE TO CRITICISMS LEVELED AT
THE EFFORTS OF THE DEPARTMENT OF JUSTICE
TO ADDRESS PUBLIC CORRUPTION

Despite the Department's record of achievement in combatting public corruption, the GAO report is highly critical of our efforts. A central theme of the report is the inadequacy of the Department's current systems for collecting statistics on public corruption cases. The Department has for some time been aware of the deficiencies of its information reporting systems and is fully committed to devising a significantly improved and fully integrated system for all matters handled by the Department. These efforts pre-date the GAO report and are continuing.

While the report's criticism of our record in compiling statistics on public corruption cases is valid, the GAO report has assigned far too much significance to the impact this problem has had on the quality of our implementation of the public corruption enforcement priority, concluding generally that having less than fully complete and comparable statistics has "hampered" the Department's efforts in the public corruption area. The inadequacy of our statistics is cited as the basis for the conclusion that the Public Integrity Section has not fulfilled a leadership role in addressing corruption by public officials and apparently is also the basis for concluding that there has been no evaluation of the extent of the public corruption problem or of the effectiveness of particular techniques to combat the problem. Furthermore, the report assesses the Department's efforts in developing and implementing plans to effect the attack on public corruption as unsuccessful.

PLANNING ATTEMPTED BUT NOT SUCCESSFUL

The report concludes that there has been no effective planning by the Department, citing as the primary evidence of that lack of planning the fact that "...U.S. attorney and FBI special agents-in-charge determined themselves how their offices' public corruption efforts would be implemented." First, there has been and continues to be significant planning of measures to improve our efforts to investigate and prosecute public corruption. Indeed, one aspect of the Economic Crime Enforcement Program is to improve planning both at the district and national levels. However, it is incorrect to characterize our planning efforts to date as unsuccessful. Our achievements in increasing the number and quality of

prosecutions of public officials are in no small part due to these efforts. Second, the Department views as entirely proper and productive the efforts of United States Attorneys and Special Agents-In-Charge to tailor their public corruption programs to suit the particular needs and resources of districts they serve. A degree of centralized planning and oversight is valuable. Again, one of the functions of the newly established Economic Crime Enforcement Program is to provide assistance in developing nationwide priorities and planning in the areas of white collar crime and public corruption. However, the Department should not impose on the United States Attorneys specific organizational plans or the use of particular investigative techniques or prosecutive strategies.

The Department's plans to implement the public corruption priority.

The first step in the Department's plans to address public corruption as an enforcement priority was the creation and growth of new operational units to address this problem specifically. The year 1976 marked the formation of the Public Integrity Section within the Criminal Division. At that time, the Department's efforts in attacking official corruption were scattered throughout the Department and not well coordinated. In the past four years, the Section has grown from eight to almost thirty attorneys. By centralizing responsibility in one place and continually increasing the level of resources for the Section, the Department has developed the Public Integrity Section into a highly significant force in the fight against corruption. In 1977, a similar organizational change took place at the FBI. A Public Corruption Unit was created at FBI headquarters to oversee the Bureau's national anti-corruption program.

Training programs have been an important part of the Department's overall planning efforts. In 1977, the FBI began including training in the area of public corruption in its white collar crime training program for field agents. In addition, starting in 1978, the Public Corruption Section in conjunction with the Fraud Section and the Attorney General's Advocacy Institute has conducted extensive seminars for FBI agents and Department prosecutors charged with responsiblity for corruption matters. Attending these seminars have been virtually all United States Attorneys, Assistant United States Attorneys, and FBI agents engaged in combatting corruption. Through these seminars and conferences, successful techniques and organizational approaches have been shared. In addition to these formal meetings, the Department constantly advises and trains prosecutors and investigators in the field.

In late 1977, the Attorney General asked the United States Attorneys to submit two-year plans for the implementation of the Department's four enforcement priorities. As the GAO report notes, 51 acceptable plans were submitted, and although this approach was later abandoned, it served to focus the United States Attorneys' attention on the Attorney General's priorities. Indeed, as is demonstrated in the sample of Districts examined in the report, a number of United States Attorneys have found it appropriate to adopt organizational plans to address public corruption specifically.

Another aspect of the Department's planning has been the use, for over three years, of an FBI-United States Attorney Office team approach to public corruption investigations. This approach involves bringing the United States Attorney's Office into an investigation at the earliest possible stage.

The most recent significant planning initiatives of the Department are the formulation of the Economic Crime Program, the white collar crime priorities project, and plans to assist in the implementation of the Inspector Generals Act. These initiatives are described later in the response.

FBI plans

The report charges that "[b]y not requesting FBI plans, the Department ignored about half the Department's public corruption efforts -- the FBI investigates most public corruption violations and the U.S. attorneys' efforts are directly linked to what the FBI investigates." First, as indicated above, the FBI has participated in planning. Furthermore, all FBI investigative priorities are discussed in detail with the Department, and no priorities are implemented without Department concurrence. Second, the report's allegation seems to be based on an erroneous understanding of the interplay between the work of the FBI and that of the United States Attorneys' Offices. The FBI does not independently conduct investigations and then submit its findings to the United States Attorney's Office for prosecution. The United States Attorney's Office becomes involved early in the investigation, particularly in public corruption cases. As noted above, a team approach is now utilized in the field, and public corruption investigations must be promptly presented to the United States Attorney's Office for concurrence in proceeding with a full investigation. In addition, the use of a number of investigative techniques and the initiation of certain types of investigations require approval either by the United States Attorney's Office or by the Assistant Attorney General for the Criminal Division. Finally, as a general matter, FBI field offices are required to confer with the United States Attorneys on a regular basis concerning enforcement priorities. Thus, in addition to being governed by priorities, plans, and guidelines developed at FBI headquarters,

the FBI field units must respond to and participate in the development of planning by the United States Attorneys' Offices.

Planning on a district-by-district basis.

The report alleges that because of a lack of adequate planning, each United States Attorney and Special Agent-in-Charge has been left to devise the manner in which to implement the Department's public corruption priority. The result has been variation in the approaches adopted by the districts, a result which the report finds undesirable. The Department acknowledges that centralized oversight, planning, and evaluation is valuable, but does not agree that it is either appropriate or productive for Washington to dictate the manner in which United States Attorneys organized their offices, prosecute their cases, allocate their resources, or conduct investigations in conjunction with the FBI.

There is tremendous variation in the size and character of the 95 districts which are the responsibility of the United States Attorneys. The nature and extent of public corruption also differ widely. Furthermore, the resources at the disposal of the United States Attorneys are not comparable. While the United States Attorneys work within the framework of Department-wide priorities and plans, each United States Attorney must tailor the organization of his office, his enforcement priorities, and the allocation of resources to meet the needs of his district. Thus, variation in the approaches in the attack on public corruption among districts is a proper and necessary reflection of cariation in the character and size of districts. To deny this variation and require uniformity in approach for all districts would be counterproductive. Furthermore, as a practical matter, such variation serves as means of testing the effectiveness of new approaches.

The United States Attorneys are in the best position to assess their enforcement priorities and application of resources to address those priorities. For example, while one function of the Economic Crime Enforcement Program is to set nationwide priorities and plans, the United States Attorneys, working with the Economic Crime Specialists in their districts, are to take the lead in developing the enforcement strategies best suited to their districts.

While the Department recognizes the value of centralized policymaking, planning and evaluation, the extent to which there can and should be extensive planning and oversight, particularly on a case-by-case basis, is limited. The United States Attorneys are directly responsible to the Deputy Attorney General and the Attorney General. It is inappropriate to

characterize United States Attorneys' Offices as "field offices" of the Department as a whole. It is the United States Attorney's responsibility to assure the quality and timeliness of the prosecutions conducted by his office. Historically, the United States Attorneys have exercised a high degree of independence in their prosecutive decisions, and it continues to be the policy of the Department to preserve this independence. In no area is the preservation of this policy of independence more important than in the prosecution of public corruption cases. The intervention of high level Department officials in public corruption cases may lend the appearance that political considerations have entered into decisions regarding the prosecution of public officials. It is the firm policy of the Department of Justice that such considerations should not affect investigative or prosecutive decisions.

"Innovative" versus "reactive" approaches.

The report criticizes the Department for not pursuing "innovative" approaches and relying too much on a "reactive" response to public corruption. Certainly, the Department is committed to the development of new organizational approaches, investigative techniques, and prosecutive strategies. However, there are two misconceptions which underlie this criticism set forth in the report.

First, organizational approaches, investigative techniques, and prosecutive strategies are not fungible. Organizational approaches must respond to the particular needs and resources of each district. Investigative techniques and prosecutive strategies must respond to the facts and circumstances of each case. Creation of a special public corruption unit may be appropriate in a district which has a large number of attorneys and a significant public corruption problem. In a small district in which public corruption is not particularly problematic, creation of such a unit is not called for. Use of an undercover operation may be called for to develop one corruption case, but totally unnecessary in another where a victim has come forward to complain of extortion by an official. Similarly, successes in the use of particular statutes to combat public corruption do not mean that prosecutions under those statutes will be equally effective in all future cases. Whether or not prosecution of public corruption under a particular statute will be successful depends on whether the facts of the case are such that the elements of the crime stated in the statute can be proven.

Second, the criticism of the "reactive" approach is at odds with the proper investigative and prosecutive role of the Department. As a general matter, the Department does

not and could not act as an insurer against public corruption. We do not conduct investigations of public officials without some credible indication of a violation of the law. To do otherwise, and engage in "fishing expeditions", would be a totally inefficient use of our limited resources. More importantly, it is absolutely contrary to Department policy. The FBI cannot and should not initiate an investigation without an adequate predicate. This predication may take a variety of forms: a public complaint, the results of state or local investigations, confidential sources, intelligence data, or leads from other investigations. The adequacy of predication in each case is carefully reviewed by the Special Agent-In-Charge and the United States Attorney's Office and is forwarded to FBI headquarters for approval. These procedures are now being incorporated into FBI guidelines. Pursuing investigations of public officials without some credible allegation of criminality opens the Department to charges that its investigations are politically motivated. Furthermore, such investigations can be particularly damaging to political figures. Disclosure of the mere fact of an investigation can be ruinous to an official's career. Thus the Department's approach to the investigation of public corruption must remain "reactive" to a degree. This, of course, does not mean that the Department does not aggressively pursue investigations of public officials once there is some reasonable indication of criminal activity.

Recent Department of Justice Initiatives to Facilitate Setting Priorities and Planning at Both District and National Levels

In addition to the roles now played by the Public Integrity Section, the United States Attorneys, and the FBI, two relatively recent initiatives have been undertaken by the Department to facilitate the setting of priorities and organizational planning to implement those priorities both at the District and National levels. These are the establishment of the Economic Crime Enforcement Program, which is discussed generally in the GAO report, and the White Collar Crime Priorities Project. In addition, the Department is actively assisting the newly established Inspector Generals' Offices.

Economic Crime Enforcement Program.

The GAO report criticizes the Department for failing to develop "innovative" approaches to the problems of public corruption. The Economic Crime Enforcement Program, which is referred to in the report, represents just such an innovative approach in addressing two of the Department's announced priorities: white collar crime and public corruption.

Initiated by order of the Attorney General in February, 1979, the Economic Crime Program is intended to establish special units focusing on white collar crime and public

corruption in 27 to 30 major districts across the country. These units will be located in the offices of United States Attorneys, and will be staffed jointly by several Assistant United States Attorneys and one or more Economic Crime Specialists from the Criminal Division. The Division's Office of Economic Crime Enforcement will provide central coordination and direction for the program. The program is now approximately one-third of the way to full implementation. Sixteen districts now have units, and 17 Economic Crime Specialists are in place. By the end of the current fiscal year, the total number of Specialists will be brought up to 23. The Department's budget request for fiscal year 1981 includes 19 more attorneys for the program and one non-attorney.

The GAO report questions whether there is a "clear need" for the new approach represented by implementation of the Economic Crime Enforcement Program. Earlier GAO reports and the hearings on white-collar crime held during the past 2 years by the House Judiciary Subcommittee on Crime have pointed toward the necessity of such a fresh approach.

It has become clear in implementing the Attorney General's announced priorities that there are special challenges posed by the broad and rather diffuse area of law enforcement that is characterized as "white collar crime and public corruption." One of those challenges is the need to coordinate the many investigative agencies that work in this area. Gaps in enforcement must be identified and filled, and duplication of effort must be avoided. Second, since the various investigative agencies differ widely in their sophistication in dealing with white collar crime and corruption, there is a need to stimulate their attention and supply training in necessary investigative techniques. Third, since white collar crime and corruption is a relatively new area for even the most sophisticated agents and prosecutors, there is a critical need for the development and dissemination of new techniques and sharing of experiences. Fourth, since public awareness of white collar crime and public corruption is still relatively low in certain quarters, efforts at prevention and detection have been hampered. Programs to bring these problems to the attention of the public are urgently needed.

These are not challenges that we can reasonably expect local United States Attorneys and investigative agencies to meet fully by themselves. Faced with rising caseloads in a variety of areas, few have the time or special skills required. It will be the function of the Economic Crime Specialists to meet these challenges. The Specialists, like the Assistant United States Attorneys assigned to each unit, will handle priority cases involving fraud and public corruption. However, case preparation and trial work, which will wholly absorb the Assistants, will be only part of the Specialists'

role. Much of the Specialists' time will be devoted to other activities.

Thus, besides direct prosecutorial involvement, the Economic Crime Specialists are to be involved in a number of activities directed at coordination, training, information gathering and sharing, planning, and evaluation that will serve to increase the Department's effectiveness in combatting white collar crime and corruption. These efforts are to include (1) meeting with investigative agencies, regulatory authorities, and state and local officials in order to assess the white collar crime and corruption problem in the district and the effectiveness of existing efforts to deal with these problems; (2) disseminating, both within the district and to other districts, any information about new fraudulent schemes or forms of corruption, about particular criminal groups whose operations extend to other regions, and about successful investigative and prosecutive techniques; (3) working with the investigative agencies to coordinate their enforcement programs and resolve jurisdictional disputes; (4) conducting or arranging for training in such areas as auditing and financial analysis for those investigative agencies where weaknesses have been identified; and (5) working with program agencies and the business community to increase their awareness of fraud and corruption and assisting them in undertaking efforts to detect or prevent such problems.

A central function of the Specialists will be to assess the extent of the white collar crime and public corruption in the district in which he serves and to evaluate the effectiveness of existing enforcement efforts, and then to assist the United States Attorney in determining priorities in these two areas for the district. A two-step process is planned for the accomplishment of these goals.

The initial phase of the program is to gather information to assist the United States Attorneys locally and the Attorney General nationally in setting priorities. Each specialist is charged with collecting information concerning the past and present investigations and prosecutions in the area to which he is assigned. In addition, he is to obtain information and recommendations from a variety of other sources in the community. From this information, the specialist will develop a report on district public corruption activities and make priority recommendations based on the data he has obtained and analyzed, the lack of which is the criticism leveled at the Department in the earlier part of the GAO report.

The next step of the program will be to measure the effectiveness of the Units in each of the two priority areas by identifying new approaches in the prevention, detection, investigation, and prosecution of economic crime offenders, and then to analyze the techniques and organizational approaches of the several United States Attorneys' offices. At that point, more complete plans can be developed to evaluate the overall effectiveness of public corruption efforts of each district and the comparative effectiveness of different approaches. One component of this evaluation will be the compilation of comparable statistics, measuring the number of public corruption cases, a goal which the Department recognizes as legitimate. However, measurement of the number of public corruption cases will be only a part of these evaluation plans. A more sophisticated method of evaluation, one which takes into account the variety of factors which must be assessed in measuring the effectiveness of our efforts in the area of public corruption is contemplated, and will be possible because of the specialists' expertise and intimate working knowledge of the nature and severity of the official corruption in his district and the methods used to address the problem.

Resource allocation to implement the Economic Crime Enforcement Program.

The GAO report recommends that the resources for the program be delineated more clearly and that the Department should develop a plan indicating where it will obtain the positions for full implementation in March 1981.* Such a plan was developed. This plan provides for the placement of 145 attorneys in approximately 29 United States Attorneys' Offices. This plan, which is now in effect, was formulated by the Criminal Division in November 1978 with a final implementation goal of March 1981. The plan identified Unit locations and personnel needs. Generally, two specialists and three Assistant United States Attorneys are to be assigned to each field unit in addition to a national office staff of five. The Office of Management and Budget has tentatively approved an increase in the number of Criminal Division attorney positions allocated to the program to 46 in fiscal year 1981. Fifty-seven Assistant United States Attorneys are presently working in the Economic Crime Enforcement Units and more will be added as the remaining Units are created.

The Economic Crime Enforcement Program is the result of centralized planning and Department-wide cooperation in implementing the Attorney General's designation of public corruption as an enforcement priority.

Throughout its report, GAO criticizes the Department for a lack of centralized planning and little coordination

*GAO Note: This recommendation no longer appears in our report because the Department has recently developed a detailed resource plan. (See p. 17.)

between the Department's investigative and litigating units. The Economic Crime Enforcement Program was generated by such planning and coordination, and its implementation will assure the continuation of such efforts. The program was carefully considered by many components of the Department and fully discussed with the United States Attorneys. Instrumental in the development of the program was the Attorney General's Advisory Committee of United States Attorneys, which made a number of suggestions concerning the program prior to its adoption by the Attorney General and the Deputy Attorney General.

Economic Crime Specialists assigned to the program are chosen jointly by the Criminal Division and the United States Attorney for the District in which they are to serve. The mission of the specialists, which is to set an agenda of priorities for attacking the areas of economic crime and public corruption within a district and groups of districts, will be effective in coordinating the efforts of the FBI, Criminal Division, and United States Attorneys. The Specialists now on duty have attended conferences and are expected to share information and techniques to greatly facilitate successful investigations and prosecutions in these priority areas. The efforts of the specialists and the Economic Crime Units will be carefully monitored by the Criminal Division.

While the conception and implementation of the Economic Crime Enforcement Program is the result of centralized planning and coordination and the mission of the field units is set in the framework of centrally set targets and priorities, it is important to understand that the ultimate goal of the program is not to develop a single approach and a single set of priorities which is then to be imposed on all United States Attorneys' offices. Although the specialists' work is delineated by this framework -- indeed it is part of the specialists' job to advise the Attorney General on setting nationwide public corruption priorities -- it is the function of these specialists and their units to assess the extent of public corruption in their districts and the resources available to combat this corruption, and to devise priorities and investigative and prosecutive techniques which will be effective yet respond to these needs and resources. Thus there will be some variation in the approaches followed in the various districts, and the Department views this variation, within the bounds of priorities set by the Attorney General, as entirely appropriate. The GAO report is highly critical of such diversity for it views it as improper and counter-productive. As noted above, the Department does not.

White Collar Crime Priorities Project.

A recent initiative of the Criminal Division has been the establishment of a white collar crime priorities project. In the order that established the Economic Crime Enforcement Program, the Attorney General also called for the establishment of national and district priorities within the area of white collar crime and corruption. As noted above, one task of the Economic Crime Specialist is to assist the United States Attorney in establishing priorities at the district level. The Economic Crime Enforcement Program would provide a basis for national priorities as well. However, since this program will not be fully implemented until 1981, it was determined that the urgency of setting national priorities required some interim measure. As a result, the Criminal Division's Office of Policy and Management Analysis, with the assistance of other units in the Division, began late in 1979 to collect and analyze data concerning white collar crime and corruption on a nationwide basis.

Detailed information on white collar crime and corruption has been obtained from 238 respondents, including the existing Economic Crime Units, special fraud or corruption units in the United States Attorneys' Offices, other divisions within the Department, the Inspectors General, and the field and regional offices of major investigative agencies. The analysis is near completion, and recommendations drawn from that analysis soon will be submitted to the Attorney General.

Support for the Inspectors General.

The Department is exercising leadership in supporting the Executive Group on Fraud and Waste in Government, which was created by the President in May 1979. The function of the Executive Group is to implement the Inspector Generals Act and address other government-wide fraud and corruption problems. The group is chaired by the Deputy Attorney General. Over the past year, the Department has worked actively with the Executive Group to address common issues facing the Inspectors General. In addition, the Subcommittee on Investigative Agencies of the Attorney General's Advisory Committee of United States Attorneys has held meetings during the past several years with the Inspectors General and officials of the major federal investigative agencies in an effort to improve working relationships between the agencies and the United States Attorneys. Officials of the Criminal Division have also participated in these meetings.

DATA COLLECTION ON PUBLIC CORRUPTION CASES IS INADEQUATE

Throughout the GAO report, the Department is severely criticized for the insufficiency of its efforts to compile statistics on the number of public corruption cases each year. The Department fully acknowledges that there is much room for improvement in this area. Our present efforts to improve our case reporting systems will continue, and our ultimate goal is to obtain uniform and complete statistics on cases handled by all components of the Department. While compiling comparable and complete statistics on public corruption cases will assist us in evaluating the Department's efforts to implement the Attorney General's decision to place public corruption cases among the top enforcement priorities of the Department, the GAO report incorrectly assesses the significance of data collection in enhancing the quality of our efforts in this area.

The Department recognized the insufficiency of its case reporting system and is actively taking steps to improve it.

The United States Attorneys' Docket and Reporting System has existed since 1953. It is the mechanism by which the United States Attorneys' Offices report case statistics to Washington. Several years ago, the Department recognized that this system did not adequately serve either the United States Attorneys' managerial and administrative needs or the needs of the Department in Washington. Since 1974, we have been actively attempting to develop an alternative system which will better serve the Department's needs.

In 1974, the Department began the development of the Automated Caseload and Collections System (ACCSYS), which was installed in the Northern District of Illinois and subsequently installed in several other Districts. This was an automated system which linked user terminals in the United States Attorneys' Offices to the Department data processing facilities in Washington. Installation of this system accomplished automated docketing. However, this experiment was terminated in fiscal year 1979 because the system was found to be both too expensive and not sufficiently flexible.

In 1979, the Department contracted with the Institute for Law and Social Research (INSLAW) to analyze the information requirements of United States Attorneys and headquarters officials. The INSLAW analysis was completed late last summer and a comprehensive report was provided to the Department. After reviewing the report, the Executive Office for United States Attorneys' contracted with INSLAW, which had developed the PROMIS system for civil and criminal justice statistics, to enhance data collection for the Department. This contract covers a one-year pilot phase of the project during which the system will be developed and installed in several districts

to test automated, semi-automated, and manual versions of the system. After an evaluation of the pilot phase in late fiscal year 1980, we hope to begin planning for nationwide implementation of the system.

While we are working to develop and install a new case reporting system, efforts have also been made to improve the present Docket and Reporting System. In late 1977, the Executive Office for United States Attorneys sought suggestions from the United States Attorneys' Offices for improvement of the system and began updating and revising the Docketing and Reporting Manual. In December 1977, the United States Attorneys were requested to assign a program code, including one for official corruption, to all matters and cases. As noted in the GAO report, a definition of official corruption has been developed, and will insure greater comparability of public corruption statistics.

All but a few United States Attorneys' Offices are now reporting new cases by program code and steps are being taken to insure that all offices report cases and matters under a program code. In March and April 1979, a series of four Docket and Reporting conferences were held which were attended by most of the Docket and Reporting clerks in the United States Attorneys' Offices. The clerks received intensive training in the Docket and Reporting System, and were instructed in executing their responsibility for insuring that it contain as complete and accurate data as possible.

An important aspect of the attack on public corruption that would not be fully reflected in the case statistics reported by the United States Attorneys' Offices is the investigative effort of the FBI. While it is the ultimate goal of the Department to develop a case reporting system that can be utilized by all components of the Department, in the interim, the FBI has significantly improved its collection of statistics on investigations of official corruption. In February 1978, FBI field offices were requested for the first time to furnish the number of pending public corruption investigations. In September 1978, statistical reporting requirements were expanded and the field offices were requested to submit a report, currently on a quarterly basis, identifying existing cases, accomplishments, and an analysis of the types of cases being pursued within categories of cases. As noted in the GAO report, the FBI has developed a uniform definition of public corruption to be used in its report system.

Thus, while not identical, both the FBI and the United States Attorneys' Offices in conjunction with the Executive Office for United States Attorneys, have developed a definition of public corruption to be used in their case reporting systems. It should be noted that the key element in both definitions is misuse of office by a public official. Therefore, while the

data generated by the two systems are not absolutely comparable -- indeed, absolute comparability, even using a single definition will not be possible -- it cannot be said that the information generated by the United States Attorneys' Offices and the FBI is not set within the framework of a consensus about what constitutes a public corruption case.

The Public Integrity Section does compile and analyze case statistics and acknowledges that they are neither as complete nor as accurate as they could be. However, the statement in the GAO report that the data reported by the Public Integrity Section is overstated because of an all-inclusive request for information on public corruption cases is not correct. Using an overinclusive request for case reports concerning public corruption, the Section attorneys then delete cases such as those involving isolated incidents of theft by lower-level federal employees and those involving criminal conduct by officials which is unrelated to misuse of office. Now being implemented by the Public Integrity Section is a new management information system to track public corruption cases. It is planned that this system will be keyed in with the data collection system used by the Executive Office for United States Attorneys.

The report overrates the value of the collection of statistics in the Department's efforts to address public corruption.

The GAO report concludes that the Department has been "hampered" in its efforts to implement the public corruption enforcement priority because of a failure to compile adequate statistics concerning public corruption cases. The Department believes that compilation of fully complete and comparable statistics on public corruption cases would give a better overview of our progress in attacking this problem. Furthermore, a fully automated and integrated system will be a far more efficient means of tracking large numbers of cases and will free our personnel from the time consuming searches for data. However, even the best statistics are of limited value in evaluating the Department's progress in addressing public corruption both nationally and in each district, and in assessing the value of various organizational approaches and investigative and litigative techniques. The success or failure or our efforts in this area cannot be measured adequately on a statistical basis, nor is it dependent on the quality of our data collection system.

First, the extent of the public corruption problem is not susceptible to statistical measurement. Even in the case of overt, violent crimes, which are frequently reported to law enforcement authorities, it is generally acknowledged that case numbers give only a partial picture of the extent of such crimes. Problems in measuring the extent of generally overt crimes, such as public corruption, are far more severe.

Second, statistics cannot fully reveal the quality of cases which are brought, the difficulty of the cases, the level of the official involved, and the overall impact of the criminal activity involved. For example, the conviction of a major official may represent a far greater achievement than the conviction of ten minor officials for the same type of crime; convictions of a figure widely known to be corrupt who has been able to shield himself from prosecution numerous times may be far more valuable in restoring the public's confidence in law enforcement than a similar conviction of an official who has not openly flaunted the law; ten convictions in a district where corruption is pervasive may be far less significant than a similar record of convictions in a district where it is not.

Third, evaluations of the effectiveness of particular investigative or prosecutive techniques and decisions as to when to use such techniques are far too complex to be determined by statistical analysis and statistical formulas. These decisions must respond to the complexities of the facts and circumstances of each case.

Thus, while statistics can play a role in evaluation and planning of our efforts in bringing public prosecution cases, the best source of information for these purposes comes directly from those who are active participants in the Department's battle against public corruption: the United States Attorneys and Assistant United States Attorneys, FBI agents and supervisors, Criminal Division Attorneys, officers in investigative agencies outside the Justice Department, and now, the Inspectors General and their staffs. The qualitative information they provide is essential to our efforts to effectively combat public corruption. The role of statistics is important, but it is, quite simply, supplemental.

PUBLIC CORRUPTION EFFORTS NEED TO BE EVALUATED

The report charges that the Department does not evaluate the efforts being made in the field or the effectiveness of these efforts, and that is does not identify effective techniques or suggest their use when appropriate. This is not true. First, the United States Attorneys and attorney-supervisors actively keep abreast of the progress of the cases in their offices, and are fully aware of what investigative techniques and litigation strategies are being used and with what effectiveness. Information and suggestions are constantly exchanged in the United States Attorneys' Offices. Second, the attorneys in the Public Integrity Section monitor the progress of all public corruption cases, identify problems, make suggestions on the use of demonstratedly effective techniques, and monitor the outcome of cases in order to assess the success of the use of new approaches. Furthermore, as previously stated, the United States Attorneys and their Assistants, Criminal Division Attorneys, and FBI agents regularly meet to share experiences with new techniques.

APPENDIX IV

Again, it appears that a deficiency in the collection of data was the primary basis for a broad allegation of inadequacy of the Department's efforts. As stated in the previous section, compilation of statistics is of limited usefulness in evaluating our efforts in attacking public corruption. The fact that the Department lacks fully adequate statistics does not merit the conclusion that we perform no evaluations and that as a result "...no one knows the direction of the Department's efforts."

Direct involvement in the investigation and prosecution of public corruption cases allows attorneys and investigators to make thoughtful and sophisticated evaluations of the Department's efforts in the public corruption area and to take steps and make recommendations to improve our record. For example, the Public Integrity Section's evaluation of our efforts in implementing the Attorney General's priority takes place at three levels. First, section attorneys monitor the progress of individual cases and make suggestions aimed at successful prosecution of these cases. Second, each attorney evaluates the overall progress of the efforts of the district or districts to which he is assigned responsibility. This evaluation is far more sophisticated than that which would be possible through compilation and comparison of case statistics alone, for it can take into account the quality of the cases brought and the nature and extent of the public corruption problem within the district. Third, the Section evaluates the nationwide progress of the Department's implementation of the public corruption priority. These sorts of evaluations, are being conducted and are essential to improving our record in prosecuting corrupt officials.

THE PUBLIC INTEGRITY SECTION SHOULD TAKE A MORE ACTIVE ROLE IN MANAGING OVERALL PUBLIC CORRUPTION EFFORTS

The GAO report concludes that the Public Integrity Section has not exercised leadership in attacking public corruption. A primary basis for the report's indictment of the Section is that it perceives the appropriate role of the Public Integrity Section as being one of collecting and analyzing case statistics. This is not now, nor has it ever been, the primary function of the Public Integrity Section. The attorneys in the Public Integrity Section are experienced litigators who have developed a high level of expertise in the prosecution of public corruption cases. As such, they provide support in the form of advice, assistance, coordination, and training to the United States Attorneys' Offices and investigative units which deal with public corruption. In addition, Public Integrity Section attorneys have directly participated in the prosecution of a significant number of cases involving official corruption.

The variety of functions assigned to the Public Integrity Section include: overseeing the enforcement of all federal statutes dealing with crimes by federal officials and employees; liaison with the internal investigative units of the federal government; coordinating the nationwide enforcement of criminal statutes relating to the integrity of the electoral process, including approval of all indictments and investigations; maintaining broad enforcement oversight over the federal prosecution of state and local officials, including the approval of indictments when such cases are brought under the Hobbs Act or the rackereering statute; assuming exclusive responsibility for prosecuting cases in which the United States Attorney's Office recuses itself, including all matters involving members of the federal judiciary; prosecuting complex, multidistrict, or nationally significant cases beyond the capabilities of the United States Attorney's Office; providing litigation support to the United States Attorneys' Offices generally; handling matters under the Special Prosecutor Act; participating with the Fraud Section in the institution, operation, and monitoring of the Economic Crime Enforcement Program; conducting training seminars for investigators and Assistant United States Attorneys; advising the Department on legislative matters relating to public corruption; and monitoring and evaluating the overall effort of the Department in the public corruption area and advising the Attorney General of its findings and recommendations. That the Public Integrity Section has achieved considerable success and provided leadership in the Department's attack on public corruption is clear.

In summary, the Department recognizes the need to strengthen its attack on public corruption. Nonetheless our achievements to date have been significant, and the Department is fully committed to improving our record. Combatting public corruption is now and will continue to be a priority of the Department.

We appreciate the opportunity to comment on this report. Should you desire any further information, please contact us.

Sincerely,

for Mark D. Van Heuven, Acting

Kevin D. Rooney
Assistant Attorney General
for Administration

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